





*By James Smith Esq*

A

STATEMENT  
OF THE  
PENAL LAWS,

WHICH AGGRIEVE

THE CATHOLICS  
OF IRELAND:

With Commentaries.

IN TWO PARTS.

PART I.

Peut on connoître le vrai génie d'un peuple opprimé, qui voit sans cesse les chatimens levés sur sa tête, et la violence toujours prête à être soutenue par la politique? Peut on juger de la valeur, quand elle est enchainée, et sans armes?

CHANVALON VOYAGES, &c.

DUBLIN:

H. FITZPATRICK.

1812.

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# CONTENTS.

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## INTRODUCTION.

	<i>Page</i>
I. IMPORTANCE of the Catholics of Ireland	1
their strength, and local advantages	ib.
—positions, commercial and military	ib.
Numbers: rapidly increasing	2
Their Crime	3
Their punishment	ib.
Mistakes of Public Men, in	ib.
under-rating their sufferings	4
Obstacles to a faithful publication	ib.
Public indulgence solicited	6
II. UTILITY of a full statement	7
Renewed discussions probable	8
The Catholics cannot submit in silence	ib.
The Protestant may learn his powers	9
The Catholic may fix the limit of ambition	10
and reconcile himself to his chains	ib.
III. HEADS OF ARRANGEMENT—	
1. Laws affecting Catholic Clergy, Schools, Charities, &c.	11
2. Exclusion from Parliament	ib.
3. ————— Corporate cities & towns	ib.
4. ————— Offices in the Law	ib.
5. ————— the Army and Navy	ib.
6. ————— various other offices	ib.
7. ————— Parish vestries	ib.

	<i>Page</i>
8. Denial of use of arms	11
9. ————— due protection in Courts of justice	ib.
10. General mischiefs, insult, opprobrium, &c.	ib.
ORDER OF STATEMENT—	
1. the words of enactment	12
2. the spirit and operation	ib.
Reasons for detailing the spirit and operation	ib.

## CHAP. I.

*“Of the Laws, which peculiarly affect the  
“Catholic Clergy, Houses of worship,  
“School-Houses, and other Charitable  
“foundations.”*

CATHOLIC CLERGY, long beloved in Ireland	14
Their Hierarchy, ancient and perfect	ib.
Their general Merits	ib.
—— individual excellence	ib.
Their Orders, Ranks and Numbers—	
4 Archbishops	
25 Bishops	
1100 Parish Priests	
800 Curates	
200 to 300 Regular Clergy	15
Their useful occupations	ib.
An affecting instance	ib.
I. “FELONY OF DEATH, if a Catholic Priest cele- brates marriage between a Protestant and “Catholic, even inadvertently, unless” &c.	16
First Statute—6 Ann. C. 16.—transportation	ib.
Second Stat.—8 Ann. C. 3.—creating evidence	ib.
Third Stat.—23 Geo. 2. C. 10.—felony of death	17
Absurdities of the Code in this respect	ib.
Interdiction continued by Statute of 1792	18
and Stat. of 1793	ib.
inflicting a penalty of 500 <i>l.</i>	ib.

# CONTENTS:

v

	<i>Page</i>
Lord Kilwarden's opinion - - -	19
Case of the King against the Reverend Mr. G. 1801, for marrying, &c. - - -	ib.
Dissenting Minister may marry Catholics and Dissenters - - - - -	20
II. "CATHOLIC PRIESTS punished, for refusing to "reveal the secrets of Confession." -	ib.
No indulgence allowed in this respect -	ib.
Catholic Priests not contumacious - -	21
Lord Kilwarden's conduct in 1801 - -	ib.
Imprisonment of Rev. Mr. Gahan, a Catholic Priest - - - - -	ib.
for refusing to reveal a Confession - -	ib.
Reasons against this severity - - -	22
Canon of General Council, of 1215 - -	21
punishing the Priest, who betrays a Con- fession - - - - -	ib.
Protestant Canon of 1603, prohibiting the Mi- nister from revealing a private Confession	ib.
Supported by Lord Kenyon's opinion, 1791.	22
Case of Du Barré, &c. - - - -	ib.
III. "CATHOLIC CLERGY punished, for excommu- "nicating unworthy members." - -	24
Fruitless attempts to excite alarm and odium upon this subject - - - -	ib.
Lord Redesdale's mis-statement in 1805 -	ib.
Real extent of Excommunication—very limited	27
Few instances - - - - -	28
Justification of the practice - - - -	29
The Right exercised by Dissenters, Quakers, &c.	30
Doubts, upon the soundness of the decision against this Right - - - -	31
IV. "CATHOLIC CLERGY prevented from officiating "to Catholic soldiers and sailors." - -	32
V. "CATHOLIC CLERGY, not protected in the "celebration of Divine Service." - -	ib.
The Catholics of England secured in this respect—by Engl. Stat. 31 Geo. 3. C. 32.	ib.

	<i>Page</i>
VI. "CATHOLIC CLERGY, held liable to taxes, as Bachelors - - - - -	33
Unreasonableness of this Tax -	ib.
VII. "OTHER GROUNDS OF COMPLAINT." -	ib.
1. Interdicted from endowment - -	ib
2. Not recompensed as Chaplains to public Institutions - - - - -	ib.
Imperfection of the Statute of 1810 relative to Catholic Chaplains of Gaols - -	34
3. Compelled to act as Peace Officers -	35
Hostility against the Catholic Hierarchy -	37
unwise and unfounded - - -	ib.
The Catholic Hierarchy the most ancient -	ib.
Shewn to be useful and honourable - -	38
Deserving of marked public favour in Ireland	39
VIII. "PERMANENT ENDOWMENT of a Catholic Cler- gyman, House of worship, Schoolhouse, " &c. prohibited." - - -	ib.
Members of all other Persuasions may create endowments - - -	ib.
The Catholics alone are prohibited - -	ib.
Their just claims - - - -	ib.
LAW OF CHARITIES IN IRELAND - -	ib.
Its obscurity - - - -	ib.
Different from the Law of England -	41
English Statutes, not in force in Ireland, viz. 1 Edw. 6. c. 14. and 9 Geo. 2. c. 36. -	ib.
View of the Law of Charities in Ireland -	ib.
1. Donations of Lands - - -	ib.
2. ——— of personal property -	ib.
Early Mortmain Acts in force in Ireland— 7 Edw. 1. c. 2. and 15 Rich. 2. c. 15. -	ib.
Stat. 10. Char. 1. s. 3. c. 1. ascertaining <i>lawful</i> and <i>charitable</i> purposes - -	42
Mortmain Acts dispensed with, by further Statutes, in favour of Protestant Charities	ib.
The King authorised to <i>License</i> , 32 Geo. 3. chap. 31. - - - -	43

# CONTENTS:

vii

	Page
Catholics still remain disabled	ib.
in three ways	ib.
No Catholic Corporation capable of taking	
Lands	44
Catholic Charities, not <i>a good or charitable use</i>	
by Law	ib.
Donations of <i>Money</i> to Catholic Charities, not	
expressly prohibited in Ireland <i>by any</i>	
<i>Statute</i>	ib.
A superstitious use defined	45
The Common Law declared to be accordingly	ib.
Hence, the Law in Ireland is the same, as if	
the Statute of 1 Edw. 6. had been enacted	
here	46
Adopted, upon principles of general policy, in	
Ireland	ib.
Opinions of Mr. Mitford, and Sir W. Grant	ib.
— of Lord Manners, in Ireland	47
Case of Commissioners of Charitable Bequests	
versus Dr. Bray and Dr. Power, April 1809	ib.
Hence, <i>all</i> permanent Donations to Catholic	
Charities in Ireland are <i>void</i> , whether of	
Lands or Money	ib.
COMMISSIONERS OF CHARITABLE BEQUESTS	48
Their origin, in 1763, by Stat. 3. Geo. 3. c. 10.	ib.
New modelled in 1800, by Stat. 40. Geo. 3.	
chap. 75.	49
Preamble of this Statute	ib.
Authority to sue, in lieu of the Attorney-Ge-	
neral	50
Provisions of this Statute, 40 Geo. 3. c. 75	ib.
Effect of this Statute in defeating Catholic	
Charities	52
Mode of suing, given to the Commissioners	ib.
Active zeal of this Board	53
Facilities given to charities of Protestants, by	
Statutes	54



	<i>Page</i>
Facilities given to Dissenters, by the Tolera- tion Act - - - - -	ib.
----- to Jewish Schools, by Lord Thurlow's decision - - - - -	ib.
Inferior objects facilitated by Statutes -	55
Family settlements opened - - - - -	ib.
Instances enumerated - - - - -	ib.
In Infirmaries, Mills, Bleachgreens, &c.	ib.
Hardship of denying this permission to the Catholics - - - - -	
Willingness of Catholics to endow, and con- tribute - - - - -	ib.
Deficiency of Ireland in this particular -	57
noticed by every stranger - - - - -	ib.
Miserable pittance allowed to Maynooth Se- minary - - - - -	ib.
Narrow feeling of the Irish Legislature -	ib.
Neglect - - - - -	ib.
----- of public Education - - - - -	58
----- of improvement of the people at large	ib.

## CHAP. II.

*“ Of the Laws which deny to the Catholics  
“ the right of sitting and voting in either  
“ House of Parliament : and herein, of  
“ the Elective franchise, as enjoyed in  
“ Ireland.”*

GRIEVOUS SEVERITY of this Exclusion -	59
Its Dangers to the Catholics - - - - -	ib.
Whether Despotism be a worse condition -	60
Archdeacon Paley's comparison - - - - -	ib.
Protest against imputations upon the benignity or kindness of the Protestants - - - - -	61
Acknowledgment of Protestant liberality and generous feeling - - - - -	ib.

# CONTENTS.

11

	<i>Page</i>
The intolerant Code alone complained of -	62
I. CATHOLICS were continually Members of Parliament, in Ireland, until 1692 - -	ib.
Excluded by an English Statute of 1692 -	ib.
extending the Eng. Stat. 30 Car. 2. st. 2. c. 1. to Ireland - - - -	ib.
Provisions of this Statute - - - -	ib.
Recognized by the Irish Parliament - -	63
Confirmed in 1782 by Stat. 21 and 22 Geo 3. chap. 48. - - - -	64
Renewed, in 1793, by Stat. 33 Geo. 3. ch. 21.	65
The Oaths, and Declaration, prescribed by those Statutes, cannot be taken by Catholics	66
II. <i>Extent and operation</i> of this Exclusion -	67
1. AS TO THE HOUSE OF PEERS - -	ib.
The Honours and privileges of this House	ib.
Nearly 500 Peerages, bestowed within 50 years selected from a favoured community -	68
Natural claims of the Catholics - -	69
Vulgar error refuted, that only <i>ten</i> Catholic Peers are aggrieved - - -	70
<i>Ancient</i> Catholic Peers peculiarly so	71
Pecuniary pursuits inconsistent with their Rank - - - -	71
Sentiments of the late Lord Petre - -	73
upon the Disgrace thus inflicted - -	ib.
Catholic Peer doubly disqualified - -	ib.
Disabled from voting for Representative Peer by the Act of Union, 40 Geo. 3. c. 29. s. 4.	74
III. "AS TO THE HOUSE OF COMMONS"	
Extensive effect of this Exclusion - -	ib.
Qualified Catholics exceed 30,000 - -	75
Personal advantages of a Seat - -	ib.
Contrast of the excluded Catholic - -	76
Benefits enjoyed by <i>all</i> Protestants - -	77
IV. This exclusion depresses <i>every</i> Catholic	ib.
Authority of Montesquieu - - -	78
New Laws annually enacted against them -	ib.

	<i>Page</i>
General stigma and insecurity - -	79
Public Advantages of admitting Catholics into the Legislature - - - -	ib.
They could vindicate themselves - -	80
Errors would be avoided - - -	ib.
Calumnies exposed - - - -	ib.
Illiberal Laws checked - - -	ib.
Useful Laws promoted - - -	81
Incompetent Members silenced - -	ib.
Irish people better known in Parliament -	ib.
Salutary Reform effected - - -	82
Paramount importance of this subject -	ib.
V. "Of the Elective franchise, as enjoyed by "Catholics" - - - -	83
Elective franchise, how enjoyed at present -	ib.
Catholics first disfranchised, in 1727 -	ib.
Partially reinstated, in 1793 - - -	ib.
Question upon this Act - - -	84
Difficulties in cities and towns - -	ib.
Elective franchise, how impeded - -	85

### CHAP. III.

*"Of the Laws, which exclude the Catholics  
"from Offices in Cities and Towns corpo-  
"rate; and, herein, of the Corporate  
"franchise, as enjoyed by the Catholics."*

I. PUBLIC MISCHIEFS of all Corporate Immunities	86
Opinion of Dr. Adam Smith - - -	ib.
----- of Archdeacon Paley - - -	87
Corporations in Ireland, peculiarly vexatious	ib.
Catholics first excluded, in 1667 - -	ib.
by Act of Explanation, 17 and 18 Car. 2. chap. 2. - - - -	ib.
Lord Lieutenant's Rules, &c. confirmed -	ib.
Substance of these Rules, &c. - -	88

# CONTENTS.

xi

	<i>Page</i>
Irish Test Act, 2 Anne, c. 14. - -	89
Lord Lieutenaat not now authorized to dispense	ib.
Irish Stat. 21 and 22 Geo. 3. c. 48. confirming the English Test and Corporation Acts -	ib.
Re-enacted in 1793, by Stat. 33 Geo. 3 ch. 21.	90
Enumeration of the interdicted Offices -	ib.
II. IN DUBLIN, 243 Offices interdicted - -	91
In other Corporate towns, 3,300 Offices -	ib.
In Dublin, 200 Dependant Offices - -	92
In other Towns, 1,000 - - -	ib.
Total amount 4,748 Offices - -	93
Catholic merchants, artizans, masons, weavers, &c. aggrieved - - -	ib.
Debased, defrauded, &c. - - -	94
Professional men, Farmers, &c. - -	ib.
Hence, misery of Irish Corporate towns -	95
—— combinations, poverty, &c. -	ib.
Idle assertions exposed : - - -	ib.
underrating the degree of Catholic servitude,	ib.
overrating the concessions of 1793. -	ib.
<i>Catholic Poor, Artisans, &amp;c. are the most un-</i> <i>protected and injured</i> - - -	96
They sink in the unfair competition -	ib.
—— are teased and worried - -	97
—— are excluded from Juries - -	ib.
—— in continual apprehension - -	ib.
Comparison of the Catholic condition with that of the Jews - - -	98
Statement in Catholic Petition of 1805 -	ib.
III “FREEDOM of Corporate Cities and Towns” -	99
Great value of this Franchise - -	ib.
Elections: Toils: Trades - -	ib.
Number of Catholic freemen inconsiderable -	100
For what cause - - -	ib.
Catholics disfranchised in 1727 - -	ib.
by Stat. 1 Geo. 2. c. 9. - -	ib.
Freedom of Corporations not since attainable by Catholics - - -	ib.

	<i>Page</i>
Their Petitions cushioned - - -	101
In Dublin, 2,430 Freemen - - -	ib.
----- not 100 Catholics of this number	ib.
The like, in the other Corporations - -	102
<i>In fact and practice</i> , the Catholics almost wholly excluded - - -	ib.
IV. UNBOUNDED liberality of the Legislature towards all, save the Catholics - -	ib.
French, Dutch, Genoese, Jews and Atheists, admitted - - -	ib.
Several Statutes to this effect from 1664 to 1796, cited - - -	ib.
Unsuccessful proposal in Irish Parliament of 1793 to extend the right to Catholics -	103
Moved by Mr. Justice Osborne - -	ib.
Supported by Mr. John Bagwell - -	ib.
Mr. Bagwell's argument - -	ib.
Protestant aliens, naturalized, by Statute of 1718 - - -	104
Further Statute of 1780 - - -	ib.
Liberal Preamble to an illiberal Statute -	ib.
Statutes of 1784 and 1796 - -	105
Naturalizing <i>all</i> foreigners, excepting only Catholics - - -	ib.
Present System - - -	106
Foreigners preferred to Natives - -	ib.
Infidels to Catholics - -	ib.
Edmund Burke's censure of this System -	106
terms it a <i>civil servitude</i> - -	ib.

## CHAP. IV.

*“ The Catholics, not eligible to Offices, connected with the Profession and Administration of the Laws.”*

I. LIBERAL CHARACTER of the Irish Bar -	107
This Exclusion not desired by the Protestant Bar - - -	108



	<i>Page</i>
Enumeration of Law Offices, expressly interdicted to Catholics - - -	109
The number, 224 - - -	ib.
Also, 25 Commissioners of Bankruptcy, and 31 Chairmen of Counties - -	ib.
Ecclesiastical Offices - - -	110
Disabled, as Advocates - - -	ib.
Case of Dr. M. Lynch, 1804 - -	ib.
Proctors, Public Notaries, &c. - -	ib.
Case of Mr. J. Callaghan, Chanc'y. 1803--1807	111
<b>II. SUBORDINATE OFFICES</b> , interdicted, about 1,000 - - -	ib.
Total Number - - -	ib.
160 Offices interdicted to Barristers - -	112
1,500 Offices interdicted to Attornies, Students, &c. - - -	ib.
Testimony of Archdeacon Paley - -	113

## CHAP. V.

*“ The Catholics disqualified from Offices in  
“ the Army and Navy, and disturbed in  
“ exercising their Religion.”*

<b>F. INCORPORATION</b> of the two Establishments, in 1800 - - -	114
Effects of the Act of Union - - -	ib.
False hopes then held out - - -	115
Terms of English Test Act, 25 Chas. 2. ch. 2.	ib.
A similar Act, in Ireland, but modified in 1793	116
Disqualification, by English Laws, remains in force - - -	ib.
Condition of Irish Officers, removed to English station - - -	ib.
Premises made in 1793 to the Irish Parliament: not fulfilled - - -	117
Instanced, in Secretary Hobart (now Earl of Buckinghamshire) and Earl of Clare -	ib.
Inconsistency of this Military Code - -	ib.
Anticipated in 1793 by Patrick Duigenan -	ib.
His exulting prophecy, realised - -	118

	<i>Page</i>
The Statute of 1793, a mere decoy - -	119
Prudent Catholics do not <i>prefer</i> the Military profession - - -	ib.
Memorable observation, in Livy - -	ib.
Total of these Offices, thus interdicted - -	120
exceeds 20,000 - - -	ib.
<b>II. CONSEQUENTIAL INJURY of this Exclusion -</b>	<b>ib.</b>
Hostility against Catholics encouraged -	ib.
Military and Naval Officers prejudiced -	ib.
Subordinate situations monopolized - -	121
Hence, apathy of the Catholics respecting Military and Naval events - -	ib.
<b>III. EXERCISE of the Catholic Religion checked, in</b>	
Army and Navy - - -	122
The same Law in England and Ireland herein	ib.
Terms of the Mutiny Act - - -	ib.
—— of the Articles of War, 1811 -	123
Hence, the Catholics are compellable to frequent Protestant places of worship - -	ib.
Extent of this liability - - -	124
Militating against the Catholic tenets -	ib.
Punishment upon Catholics, offending herein	125
<i>Discretionary</i> in Court Martial, by Sect. 24.	ib.
Punishment of Death, by Mutiny Act, ch. 8. s. 1. - - -	126
<b>IV. THUS the Catholic worship is coerced - -</b>	<b>127</b>
Notoriety of this fact - - -	ib.
In America, Portugal, Sicily, Ireland, &c.	ib.
Like coercion in the Navy - - -	ib.
Silence of Irish Statutes of 1792 and 1793, as to security - - -	ib.
Military orders of Commander in Chief -	128
precarious - - -	ib.
—— may be recalled at pleasure -	ib.
—— - no legal protection - -	ib.
Remedy may be stifled - - -	ib.
Natural reflections of a Catholic Soldier or Sailor - - -	ib.

## CHAP. VI.

*“ The Catholics disqualified from various  
“ other Offices, not already classed.”*

	<i>Page</i>
ENUMERATION of additional Offices interdicted	131
Their number, 248 - - - - -	ib.
Interdiction, re-enacted in 1793 - - -	ib.
Subordinate Offices, interdicted - - -	132
Deputies, Agents, &c. - - - - -	ib.
Post Office Establishment - - - - -	ib.
Inconsistency of this Penal Code - - -	133
Imperfection of the Statute of 1793 - -	ib.
RETROSPECT OF THE FIRST PART OF THE PENAL CODE - - - - -	134
I. COMPLETE SUBJECTION of Catholics to Protes- tants - - - - -	ib.
In the State—Taxation—Offices—Army and Navy - - - - -	135
In Cities, towns, &c. - - - - -	ib.
II. HEADS of Penal Code, reserved for the SECOND PART - - - - -	
Monopoly in Parishes - - - - -	136
Land Tax imposed upon Catholics - - -	ib.
Parish Offices imposed - - - - -	ib.
Excluded from Parish Vestries - - - -	ib.
Compelled to supply Parish income - - -	ib.
Right of having Arms, circumscribed - -	ib.
Protestants subject to <i>no</i> restraint herein -	ib.
Purity of Judicial Decision, how involved -	ib.
Whether Catholics can rely upon an im- partial Administration of Justice? - - -	ib.
Opprobrious imputations continued - - -	ib.
through Qualification Oaths - - - - -	137
Subordinate clauses, vexatious and irritating	ib.
The Catholics stigmatized, marked for scorn and derision, &c - - - - -	ib.
III. DISSENTIONS cherished by this Penal Code -	138
Catholics compelled to Petition - - - -	ib.
Government excites resistance - - - -	ib.
Contrivances, to prevent Petitions - - -	139

	<i>Page</i>
State Prosecutions - - -	ib.
Attempts to drown Catholic complaints -	ib.
Slanders and jealousies promoted -	143
IV. "IGNORANCE and Errors, prolonged by this " Penal Code" - - -	ib.
Reconciliation annually more difficult -	ib.
Prolonged misunderstanding between Great Britain and Ireland - - -	ib.
Lord Lieutenants, Chancellors, Secretaries, &c. misled, upon coming from England -	141
Lord Redesdale's Letter, in 1803 - -	142
D. of Richmond's Proclamation, in 1811 -	ib.
Lord Manners - - -	ib.
V. " <i>Catholic Peasantry, Poor, &amp;c. aggrieved</i> " -	ib.
Grounds of Catholic Petitions, not light or frivolous - - -	ib.
The Penal Code in full vigour -	143
No connivance or relaxation permitted -	143
Virulence against Catholics of <i>all</i> ranks -	144
Eagerness of all Catholics for <i>complete</i> relief	ib.
Their time and studies wasted -	ib.
Hardship of this necessity -	145
VI. "APPEAL to Reason and Feeling, on behalf of " the Irish Catholics" - -	145
<i>Disqualification from Office</i> - -	ib.
not a trifling punishment - -	ib.
Reserved by the Laws for gross turpitude and profligacy <i>only</i> - - -	ib.
Instances in Bribery, Corruption, Apostacy, &c. - - -	146
Solemn Declaration of the House of Peers, upon the Severity of this Punishment -	ib.
Political Liberty, and Liberty of Conscience -	147
Whether at present enjoyed by the Catholics?	ib.
The object of Catholic Petitions is RELIGIOUS LIBERTY - - -	ib.
Extinction of enmities, and of intolerance— forms the scope and <i>real purpose</i> of all Ca- tholic remonstrances and Petitions - -	148

# ADVERTISEMENT.

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## CATHOLICS.

THIS Appellation is used throughout the following Statement, for the sake of brevity, not of controversy. The Legislature has curiously varied in this particular. From the time of the introduction of the Protestant creed into Ireland (Temp. Elizabeth) to that of William 3d, the appellation, used in the Statutes, appears to have been "persons in communion with the Church of Rome." In the commencement of the reign of William 3, viz. 1692, the Catholics were expelled from the Irish Parliament. A hostile phraseology then appeared. "Papists, Popish People," &c. are to be found in all Statutes, affecting the Catholics, from the 7 Will. 3: to the 32 Geo. 3. inclusive, and even later. The 33 Geo. 3. at length, styles them "Papists, or persons professing the Popish or *Roman Catholic* religion."

However, the latest Statute relating to the Catholics, 43 Geo. 3. ch. 50, drops the harsher names, and, by its title, denominates them "Roman Catholics." This may, therefore, be taken to be their *legal* description at this day. The reproachful epithets of "Papist," "Romanist," "Romish," "Popish," &c. are no longer applied to them by any Gentleman or Scholar.

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## "CORPORATION AND TEST ACTS."

THE English Corporation Act, 13 Car. 2. st. 2. c. 1. agrees in substance with the Rules and Orders, confirmed by the Irish Statutes of the 17 and 18 Car. 2. ch. 2. and 25 Car. 2.

The English Test Act, 25 Car. 2. st. 2. agrees with the Irish Test Act, 2 Anne, ch. 6.

The Sacramental Test was repealed in Ireland in 1780, as to Dissenters, by stat. 19 and 20 Geo. 3. ch. 6.



“ The Test Act, so vainly attempted to be re-  
 “ pealed in England, and so strongly supported in  
 “ Ireland, was a few years since repealed in Ireland  
 “ *sub silentio*, with probably scarce the knowledge  
 “ of 500 persons in Ireland.

*Dr. Arthur Brown's Eccles. Law, p. 47.*

As to Catholics in Ireland, the Corporation Act re-  
 mains in force. The Test Act may be said to have been  
 nominally infringed, and “ *pro tanto*” repealed, by the  
 Statutes of 1792 and 1793, subject to the numerous ex-  
 ceptions therein contained: but, in substance and  
 practice, it continues in full force, to the exclusion of  
 the Catholics from offices.

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### “ ELECTIVE FRANCHISE.”

Since this Statement went to Press, a valuable Statute  
 has been passed in 1811, 51 Geo. 3. ch. 77, which re-  
 moves the difficulty stated in page 84, and facilitates  
 the Catholic qualification for exercising the elective  
 franchise. This statute, obviating the contradictions  
 between the statutes of 1793 and 1797, enables the  
 Catholics to qualify *during the election*. In other par-  
 ticulars, it so clearly and wisely establishes the general  
 exercise of the Elective Franchise against frivolous  
 verbal objections, that it may perhaps be termed the  
 most salutary statute for the Irish public, that has been  
 enacted during the last twenty years.

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### CORRECTIONS.

*The Reader will perceive some errors of the Press,  
 which his judgment will correct, and his candour  
 excuse, viz.*

- |      |  |
|------|--|
| pag. | line   |
| 39   | 6 for VII, read VIII.                                      |
| 41   | 16 for <i>Satutes</i> , read <i>Statutes</i> .             |
| 44   | margin, for <i>post</i> , p. 39, read <i>post</i> , p. 47. |
| 53   | 3 for <i>mistaking</i> , read <i>mistaken</i> .            |
| 80   | 1 for <i>aggressson</i> , read <i>aggression</i> .         |
| 110  | 12 for <i>momnts</i> , read <i>moment</i> .                |
| 121  | 13 for <i>allmost</i> , read <i>almost</i> .               |

# INTRODUCTION.

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## SECTION I.

WHOEVER would rightly understand the actual State of IRELAND, ought principally to inform himself of the peculiar condition of its Catholic Inhabitants.

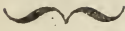
In every point of view, they form a most important subject of inquiry and of serious reflection. Strength, industry, energy, and all the characteristic virtues which bestow value upon a People, are theirs in an eminent degree. In Numbers they have prodigiously increased; and they are continually increasing, beyond example in any other country. Already they compose the far greater part of the trading and manufacturing interests. The Agricultural class, so powerful and influential throughout Ireland, is almost universally Catholic. They occupy the most valuable positions, whether for commercial or for military purposes; the boldest Coasts, most navigable Rivers, and most tenable passes; the most fertile Districts, the richest supplies of

Importance of  
the Irish Catho-  
lics.

Their Numbers.

Local advan-  
tages.

SECT. I. forage, the readiest means of attack or defence.

 The Geographical advantages of Ireland are well known. Cork, Waterford, Kerry, Galway, Mayo, &c. &c. all Catholic Counties, attest the correctness of our assertions.

Their Numbers  
*ten to one.*

Numerically, the Catholics constitute full five-sixth parts of the Irish Population; and, compared with the Members of the Established Church, they are in the proportion of at least **TEN TO ONE**; a proportion, be it observed, rapidly advancing of late years. In every City, Town, and Village, their numbers more or less preponderate. The open Country is in their almost exclusive occupation. The gross population of Ireland, at this day, is moderately estimated by the most competent judges at Five Millions of Inhabitants. Of this number we may, without exaggeration, state the Catholics as amounting to 4,200,000; that is, equal to one-half of the united population of England and Wales.

4,200,000.

In fine, the Catholics are emphatically the **PEOPLE OF IRELAND.**

Their Crime.

Such is the class of Men, faithful, generous, and deserving,—suffering for the misfortunes of their Ancestors, yet nobly steadfast to their venerated Religion.—Such are the **PEOPLE**, to whom the British Laws deny Liberty of Conscience. Their sole Crime is that of adhering fondly

to the Religion of their choice—of obeying the sacred dictates of private judgment: and this, not by overturning any established System, or by turbulent innovations, but by preserving, pure and inviolate, the holy doctrines handed down to them by their Forefathers, confirmed by ages of suffering and calamity, and now consecrated to their love and respect by an historical identity with the honor and fair fame of Ireland, during nearly fourteen Centuries.

SECT. I.

Constancy in Faith.

For this crime, of worshipping their Creator, in the form practised throughout the greater part of Christendom, the Catholics of Ireland are the prostrate victims of a teasing, intolerant Code of laws; rendering them, in effect, almost “Aliens” in their native Land.

Their Punishment.

To expose the nature and extent of this Code, to develop its severe operation upon the People of Ireland, is our present purpose. An acquaintance with this subject will, in fact, serve as the surest clue for investigating many local anomalies, for unravelling many apparent difficulties, and for tracing the true causes of the numerous Evils, which deform the condition, and impede the prosperity—of Ireland.

Their Case necessary to be understood.

To misapprehensions of the true extent of this Code are attributable the errors and mistatements which have been so frequently adopted by public

Mistakes of public Men.



## SECT. I.

Misapprehen-  
sions now pre-  
valent.

Catholic suffer-  
ings under-rated

men of all parties, in discussing the case of the Irish Catholics. Hence, we have seen eminent Statesmen, Orators and Writers, however favourably inclined towards the abstract principle of Catholic Freedom, occasionally mistaking the extent of this Penal System, miscalculating its daily and necessary operation, and inadvertently under-rating the degree of impatience and poignant anguish, universally suffered by the Irish People under its baneful influence. The truth of this observation, every well-informed Catholic has had ample occasion to observe and deplore.

But these misapprehensions cease to excite surprise, when we consider, not merely the uncommon variety and multitude of these Penal enactments, which render an enumeration difficult, but also the heavy discouragements which have hitherto prevented any publication of the “Case of the Catholics of Ireland, under the existing Laws.”

Obstacles to  
publication.

For he who would unfold, without reserve, the various grievances of this injured people, or publicly recommend their Case to the justice and good sense of their fellow subjects, undertakes but a cheerless and hazardous task.


Danger attend-  
ing its

Not only no praise, or gratitude, or reward of any kind, awaits his performance, however arduous or correct; not only is the door of



advancement closed, and the paths of honourable ambition interdicted to his hopes ; but he becomes instantly exposed to that jealous irritability of power, and that unrelenting personal proscription, which necessarily flow from the very temper and inherent nature of this Penal Code. Such has been the experience of many years in Ireland. An unguarded phrase may be transplanted into the defamatory pages of some hireling or expectant Pamphleteer : an accidental ambiguity of expression may be wrested or misquoted, so as to make the “ better Sense appear the worse.” It may be garbled and tortured into constructive disaffection, sedition, or even Treason ; and his very proscribers and persecutors may become, directly or mediately, the Judges of their own perverse constructions. In such a country as Ireland is, under present

## SECT. I.

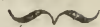
  
Dangers attending publication,

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A. D. 1811.

Such, partly, are the obstacles to a free and faithful Publication of this nature ;— These may sufficiently account for the obscurity in which this subject has hitherto remained. Fully aware,

## SECT. I.



Public indul-  
gence solicited.

however, as we are, of the extent and variety of the Discouragements to which we have thus briefly adverted, we shall proceed to the performance of this useful and important work. We are impelled to do so by a deep conviction of its necessity, and by an over-ruling sense of the duty which we owe to our Country, and to the age in which we live. If the Difficulties to be encountered are formidable, if prepossessions against the Catholic People are strong and various, it behoves us the more earnestly to deprecate unfair criticism—to disclaim all forced interpretation of our Language—to soften the asperities of well-meaning opponents, to sue for the indulgence of the candid and considerate, and to invite the liberal and patriotic aid of all, in the discharge of this public duty. All this we do in the sincerity of our hearts. The expectation of being useful to our Country is our sole support and incitement. But we are not altogether without some hope, for the sake of Ireland and of human nature, that an attempt of this kind, prompted by upright and benevolent motives, and guided, as we trust, by truth and temperance, may possibly experience a candid reception from the public at large, and ultimately obtain the approbation and effectual support of

the honest, the generous, and the well-educated of all Persuasions throughout the Empire.

SECT. II.



## SECTION II.

*Utility and reasonableness of this Statement.*

A FULL and distinct "Statement of the Case of the Catholics of Ireland, under the existing Penal Laws," has been long a public *desideratum* to literary men of every class.

The Lawyer, however diligent and erudite, is To the Lawyer. at present destitute of the means of ready reference upon a branch of his Science, which must frequently fall within his consideration; involving, as it necessarily does, the Rights and Liberties, Properties and Lives, of the Catholic Population.

The Philosopher, contemplating the nature The Philosopher. of this unexampled servitude, its causes, principles, and present enormous extent, will discover a boundless range of instructive occupation for the human mind. He will see new instances of the abuse of Power, the force of Prejudice, the folly of Religious Intolerance, the honourable constancy of a suffering People; but he may hesitate to admit, that the Age, in which four Millions of Irish Catholics are doomed to the horrors of Religious Exclusion, can be justly deemed an "Enlightened Age."

More especially the Legislator or the States-The Legislator. man will find, in the moral and political tendency

**SECT. II.** of this Anti-Catholic Code, abundant matter of profound study, of pressing importance to the general weal, and of peculiarly urgent claim upon his strenuous exertions in the discharge of his public duty. Nay, he is bound, by every obligation to his Country and to Society, to bestow his serious attention upon this subject.—His Decision will be frequently appealed to. For it is but reasonable to presume, from the immense numbers of the Catholics, their bold and unbroken spirit, their increasing intelligence, natural resources, and interesting position, and, above all, from the intrinsic and undoubted Justice of their Cause, that they will not submit, in ignoble silence, to a continuance of their Degradation. On the contrary, their condition and their complaints must continually come before the Legislature ; and, until fully redressed, must produce renewed, anxious, and solemn discussions.

Probability of renewed and continual discussions in Parliament.

This publication instructive to Adversaries, as well as Advocates.

To the Adversary, then, not less than to the Advocate, of Catholic freedom, a correct view of this Penal Code must prove useful. Without it no argument upon the subject can be forcibly applied, or effectually repelled : and every discussion must exhibit, as heretofore, numerous instances of argument without efficacy, and of assertion without proof. But, surely, if Freedom is eventually to be restored to the Catholics, the



provident Legislator ought to be apprized, distinctly and accurately, of all the restraints and penalties now in force against them ; what Laws ought to be abrogated, and what Laws enacted, in order to render that Freedom effectual and permanently secure.

SECT. II.



If, on the other hand, Freedom is to be still withheld from the Catholics, if they are doomed to drag on the burden of their chains for some indefinite period of years, to submit to bondage as their *permanent Destiny*, and to look for Redemption only in the visions of a gloomy futurity ; even in this supposed alternative, no well-instructed Protestant should remain imperfectly acquainted with so valuable a portion of the Laws, as that which defines and ascertains his personal ascendancy, privileges, and powers over the millions of his Catholic fellow-countrymen. It may afford the means, as well of satisfying a natural curiosity touching the fate of his Vassal Neighbours, as of learning the enormous powers entrusted to his use and exercise over them. Doubtless, too, it may awaken his compassion, and plead some excuse for occasional Irregularities, which bad Laws invariably provoke. Whether he desire the Abolition or the maintenance of this Anti-Catholic Code, it cannot be deemed improper to submit to his impartial con-

Interesting to  
both Catholics  
and Protestants.

The Protestant  
should learn the  
extent of his  
Dominion.



## SECT. II.



sideration a Summary of its Enactments, extent, and operation in Ireland. His Judgment and feelings may pronounce upon them, but his Authority and privileges remain untouched.

Consolation to  
the suffering  
Catholic.

To the Catholic, also, it may prove a salutary though a sad consolation, to be enabled to fix the precise limit of his Hopes, and the landmark of his justifiable ambition, under the Laws and Constitution of these realms. He may thus avoid the chagrin of disappointed projects, and reconcile his mind and those of his children, betimes, to the humiliating arrangements and the settled exclusions, which the Laws ordain. Shielded by such salutary warning against the delusive hope of Religious Liberty, he and his family may creep through Life with due submission, and meekly bow their heads to the dust, before the established dominion of those more fortunate Christians, who profess the Protestant faith.

## SECTION III.

*Arrangement.*

Arrangement of  
this work.

THE following Arrangement has been adopted for affording the intended information, touching the actual condition of the Catholics of Ireland under the existing Penal Laws.

Heads.

1.  
Catholic Clergy,  
Worship,  
&c.

I. We shall treat of those Laws which peculiarly affect the *Catholic Clergy*, Houses of

Worship, School-houses, and other Charitable Foundations. SECT. II.

II. Of the Exclusion of the Catholic Nobility, Gentry, &c. from the Legislature 2.

III. Of their Exclusion from Offices, &c. in Corporate Cities and Towns. 3.

IV. From Offices relating to the Administration and Profession of the Laws 4.

V. From Offices in the Army and Navy, and from the free exercise of their Religion therein. 5.

VI. From various other Offices of Trust, Honor, and Emolument. 6.

VII. From Parochial Vestries. 7.

VIII. From the right of having Arms, upon equal terms with Protestants. 8.

IX. From the due protection of the Law, and especially of Trial by Jury. 9.

X. Of the general Mischiefs of this Code, as inculcating sentiments of aversion towards the Catholics, stigmatizing them as disloyal, faithless, and superstitious; unworthy of Power or Trust, as an inferior race: and exposing them to insult and injury, in the spirit of scorn, and the hope of impunity. 10.

Of each of these Articles we shall treat separately; and

## SECT. III.

I. As they respectively appear on the face of the Statute Book, *by express enactment.*

II. As they are enforced, to the injury of the Catholics, directly or indirectly, *in their spirit and constant efficacy* throughout Ireland.

Necessity of a detailed Statement of the operation of this Code.

It would be impossible to render a work of this nature satisfactory, were we merely to present a naked enumeration of the several Anti-Catholic Statutes, Clauses and Provisions, which remain in force. Such a Compilation, however copious and accurate, must fail of its professed purpose, unless accompanied by a corresponding Statement of its actual application to the Catholics of Ireland, in their various situations of life—their history—habits—numbers—respective pursuits, and local Customs, as well as their relative proportion to the professors of the Established Faith. It, therefore, appears to be indispensably necessary to annex, to the *Letter* of these Laws, a temperate Statement of their *Operation, spirit, and construction*, in order to form a just estimate of the peculiar condition of the Catholics in their native Country.

This shall be done under each of the foregoing *Ten Heads* of this Code, as they follow in order.

# STATEMENT,

&c. &c.


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## CHAP. I.

*Of the Laws which peculiarly affect the Catholic Clergy, Catholic Houses of Worship, School-Houses, and other Charitable Foundations.*

As the concerns of Religion claim the first place Catholic Clergy, &c. in the estimation of all good men, we begin with \_\_\_\_\_ those parts of the Penal Code, which are peculiarly directed against the Ministers of Catholic Worship, and the Works of Catholic Piety.

That the Laws of a Country should wantonly Hostility towards the Ministers of any Religion—im- select the Ministers of any form of Worship as politic. objects of hostility, appears to be at once a departure from the principles of sound Legislation, and a violation of the rules of good sense.—Every measure of this nature weakens the attachment, or lessens the love and respect, of the People towards the Laws ; and therefore in-

CHAP. I.  flicts a public injury. This is strongly exemplified in the instance now under consideration.

Catholic Clergy. The Catholic Clergy of Ireland have long possessed, in an eminent degree, the confidence, the affections, and the reverence of the People. Collectively, they are the representatives of the most ancient Christian Clergy of Ireland. Their Hierarchy has been preserved, entire and unbroken, through every peril and persecution. They have uniformly shared with the unfortunate in their miseries, with the poor in their afflictions, with the suffering in their sadness, and have never once forsaken the fate and destinies of their Country. The memory of their former sorrows, of their unshaken constancy and Righteousness under every trial, of a community of griefs, of partnership in tribulation, would alone suffice to preserve and eternize the sympathy and attachment of a grateful people towards their beloved Clergy.

Hierarchy—  
ancient and perfect.

Their general  
merits.

Their individual  
excellence.

But, besides these established advantages of high character collectively, their eminent merits, as Individuals, entitle them to the most respectful treatment. Splendid Talents, various and extensive Learning, rigid Integrity, pure Benevolence, innocence of Morals, and unaffected Piety; all that can dignify or decorate a chosen order of Men, are to be found amongst the Irish



Catholic Clergy, in a degree of perfection never surpassed in any age or Nation. CHAP. I.

They consist of 4 Archbishops, 25 Bishops, Catholic Clergy. about 1100 Parish Priests, 800 Curates, and between 200 and 300 Regular Clergy of various Orders; amounting to a total number, exceeding 2000 Clergymen, all incessantly employed in ministering to the Spiritual wants of four Millions of People. These are the peace-makers throughout every district; healing dissensions, reconciling differences, inculcating pure morality, confirming the good, reclaiming the sinful, soothing the sorrowful, earnestly diffusing all the blessings of fervent charity, and enforcing all the precepts of social affection. Their labours are incessant, and their very existence is a state of continual self-denial. No sentiment but that of Religion, no support but the inward impulse of divine love, could sustain their marvellous, and almost superhuman, exertions in fulfilling their sacred Duties.—Generous, bold and indefatigable, not to be deterred by distance, inclemency of weather, unseasonable hours, dread of contagion, or any other temporal obstacle, the Catholic Priest flies to the bed of Sickness at a moment's call, imparts the balm of hope to the dying penitent, alleviates his anguish with the sweetest and most benevolent assiduity, and piously assists in the precious office of rendering his last moments acceptable in the eyes of his Creator.

These are amongst the many services of the Catholic clergy, and their claims upon the respect of their flocks.

Their orders, ranks, and numbers.

Their useful occupations, and heroic Devotion to their flocks and their duties.

An affecting instance.

*2000 / 4000 / 000*  
*am*

## CHAP. I.

  
Catholic Clergy.

Yet such are the men, against whom the jealousy of the Legislature is in full vigor, and who are only noticed by the Laws, for the purposes of reprehension and of Penalty.

**Felony of death,**  
if a Catholic  
clergyman cele-  
brates marriage  
between two  
Protestants, or  
a Protestant and  
Catholic, unless,  
&c.

I. " If a Catholic Clergyman happens, though  
" inadvertently, to celebrate Marriage be-  
" tween two Protestants, or between a  
" Protestant and a Catholic (unless already  
" married by a Protestant Minister) he  
" is liable by law to suffer *Death*."

Statute of 6  
Anne c. 16.  
Sect. 6.

The first Statute upon this subject was enacted in the year 1708. It directs, that " If any  
" Popish Priest shall celebrate Matrimony be-  
" tween any two persons, knowing that they  
" are, or either of them is, of the Protestant  
" Religion, he shall suffer the punishment of a  
" Popish Regular." (that is, to be transported,  
and to remain in Gaol until transported, and  
punished as if for High Treason, if he returns  
to Ireland. 9 Will. 3. c. 1.)

8 Anne. c. 3.  
Sect. 26.

The next Statute, enacted in 1710, adopts a singular rule of evidence, not very conformable to the dictates of ordinary justice.

It directs, that " Upon every Prosecution of  
" a Popish Priest for the above-mentioned of-  
" fence, *it shall be presumed, allowed, and*  
" *concluded, to all Intents and purposes, that*  
" the Priest so accused, did celebrate such Mar-  
riage, *knowing* that one or both of the parties  
" was, or were, of the Protestant Religion.

" Unless he shall produce a Certificate under  
" the hand and seal of the Minister of the Parish

“ where the parties resided, certifying that  
 “ *such person was not a Protestant at the time*  
 “ of the marriage.”

CHAP. I.

Marriages of  
 Protestants and  
 Catholics, &c.

23 Geo. 2.

ch. 10.

The third statute, enacted in 1750, renders  
 this offence punishable as a *felony without bene-*  
*fit of clergy*, and consequently, the Catholic  
 priest, upon conviction, is to suffer death.

And this too, although such marriages had  
 been already pronounced to be *null and void*, by  
 a statute enacted in 1746.

Such is the punishment, and such the facility  
 of convicting a Catholic priest in Ireland, at this  
 day, for an offence which the most cautious may  
 commit (if an offence) through inadvertency or  
 misinformation.

To expect that the Protestant minister, per-  
 haps a *non-resident*, shall certify that a party  
 is *not* a Protestant, or any such negative fact,  
 seems absurd enough. Besides, no obligation  
 is imposed upon him, by penalty, for refusal or  
 otherwise, to grant any certificate whatsoever.

Absurdity of  
 this Regulation:

But this Anti-Catholic code presents a tissue of  
 absurdities. For instance, suppose a Protestant  
 dissenter and a Catholic about to be married,  
 the ceremony must be performed by three clergy-  
 men, as matters now stand.

- 1 The Dissenting minister.
2. The Protestant minister of the parish,

CHAP. I. (without whose previous celebration the Catholic priest is forbidden to officiate.)

Marriages of  
Protestants and  
Catholics.

32 Geo. 3. c.  
21. Sect. 13.

### 3. The Catholic priest.

The statute enacted in 1792, which permitted intermarriages between Protestants and Catholics, has continued the previous interdiction of Catholic priests celebrating such marriages.

And, in the statute enacted in 1793, professing to grant extensive relief to the Catholics, this subject forms one of the numerous exceptions which have been re-enacted, and thus frustrated the public expectation.

33 Geo. 3. c.  
21. Sect. 12.

This act provides, “ That nothing therein  
“ contained shall be construed to extend to  
“ authorize any Popish priest, or reputed Popish  
“ priest, to celebrate marriage between Protes-  
“ tant and Protestant, or between any Protestant  
“ (or one professed within twelve months to be  
“ so) and a Papist, unless such Protestant and  
“ Papist shall have been first married by a  
“ clergyman of the Protestant religion.

“ And that every Popish priest, or reputed  
“ Popish priest, who shall celebrate any mar-  
“ riage between two Protestants, or between any  
“ such Protestant and Papist, unless such  
“ Protestant and Papist shall have been first  
“ married by a clergyman of the Protestant re-



“ligion, shall forfeit the sum of £500 to his Majesty, upon conviction thereof.”

CHAP. I.

Marriages of  
Protestants and  
Catholics, &c.

It was, at one time, supposed that the former punishment of death for this offence was virtually mitigated to the penalty of £500, by the fair construction of the last-mentioned act, and had become merged in the new prohibition.

However, the contrary doctrine has been adopted by the highest law authority, and, in several cases; particularly in the case of the King at the prosecution of Surgeon Boyton, against the Reverend Mr. G——, John MacDermot, and others, where Lord Kilwarden, Chief Justice of the Court of King’s Bench, declared publicly from his seat, that this offence continues at this day to be punishable with *Death*, under the Popery laws. In this case the Reverend Mr.

G——, one of the Clergymen officiating in Denmark-street Chapel, had been called upon Case of the Revd. Mr. G——.

by the family of a respectable Catholic tradesman, resident in his vicinity, to celebrate marriage between a young man, a member of the family, and a Miss Boyton, who had resided for some time in the House of the tradesman. The Clergyman, having no reason to doubt that both parties were Catholics, performed the ceremony in the usual manner. It turned out that she was the Daughter of a



## CHAP. I.

Secrets of Con-  
fession.

Protestant, then confined in Prison for Debt, who immediately instituted this Prosecution against all the parties to the transaction.

Such is the risk which a Catholic Clergyman incurs, in the performance of a sacred Duty. If a Person from a distant Parish, whose Protestantism may be of recent date, and not known beyond the limits of his own County, proposes to marry a Catholic female, the Catholic Priest is *presumed to know* that he is a Protestant, and is *punished accordingly*.

32 Geo. 3. c.

21. Scot. 12, 13.

It is observable, too, that any Dissenting Minister may legally celebrate Matrimony between any Catholic and any Protestant (not of the Established Church) without penalty.

Imprisonment  
for not disclo-  
sing the Secrets  
of Confession.

II. “ Catholic Priests are liable to Imprison-  
“ ment for refusing, upon being inter-  
“ rogated in Courts of Justice, to di-  
“ vulge the Secrets of private Confession,  
“ confided to them by their Penitents.”

In cases of Trials in Courts of Justice, no distinction is permitted between the examinations of Catholic Priests and those of other persons. The same extent of Testimony is exacted from them, without any exception in favor of such evidence as may have come to their knowledge solely thro’ the medium of private Confession. If a Catholic Priest declines to yield such evidence, when

required, he is treated as *contumacious, and as if actuated by no other motive than a contempt of the Judicial authorities* ; whilst, in reality, he is governed by a virtuous principle—that of preserving a sacred trust, and guarding inviolate the secrecy of a confession, made to him upon the very faith of that secrecy.

CHAP. I.

Secrets of Confession.

The late Lord Kilwarden, Chief Justice, committed to gaol a Catholic Priest, the Reverend Mr. Gahan, for a contumacy of this nature. This occurred at the Summer Assizes of 1801, for the county of Meath, held at Trim, in the case of *Mrs. O'Brien, v. the Trustees of Maynooth College*.

Lord Kilwarden's imprisonment of a Catholic priest.

It should be considered, that the attempt to enforce this obedience would, if successful, defeat its object ; because the secrets, sought to be extracted, will never be entrusted to the Priest, if there ceases to be a moral certainty that they will be religiously preserved. The public confidence in the secrecy of private Confessions being once extinguished, there will be an end of unreserved disclosures to the Priest—and no information can be had from him, who will have none to give.—Thus, in fact, this rigorous proceeding is utterly unavailing to any public purpose, and unprofitable to the general administration of justice.

Reasons against it.

## CHAP. I.

Secrets of Con-  
fession.

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It merely involves the Bench in an ungracious, and ineffectual struggle, in which the public voice will ever sustain the Priest suffering in the cause of Duty, Honour, and Truth, and condemn the ill-timed and indiscreet exercise of summary Jurisdiction.

Inefficacy of  
punishment.

Certainly, it may be affirmed with perfect confidence, that no Catholic Priest in Ireland will be found to yield obedience in this respect, by betraying the sacred trust reposed in him. His conscientious belief is, that the Sacrament of Penance is of divine institution; that CONFESSION is one of its *essential parts*; that an *inviolable secrecy* attaches to the *Sacramental Confession*; that the Confessor is bound to suffer death, rather than reveal (by word or sign, directly or indirectly) any *sin or crime*, or any circumstance attending them, mentioned by the Penitent in Confession: yea, that the whole Confession is to be buried in eternal oblivion, and that, according to the Laws of the Catholic Church, he would expose himself to degradation for life, as a punishment for the crime of violating such a trust, and forfeit eternal Salvation hereafter. He would be immediately deposed from all his Priestly functions, and consigned to universal abhorrence.

It was so decreed by the General Council of Lateran, held, in 1215, under Pope Innocent :

CHAP. I

Secrets of Confession.

Catholic Doctrine.

Chap. *Omnis utriusque Sexus*.—" *De Pœnitentia. Caveat autem Sacerdos omnino, ne verbo aut signo, aut alio quovis modo, aliquatenus prodatur peccatorum—Qui peccatum in pœnitentiali Judicio sibi detectum præsumpserit revelare, non solum a Sacerdotali officio deponendum decernimus, verum etiam ad agendum perpetuam pœnitentiam in arctum monasterium detrudendum.*"

We are thus particular in stating this Prohibition, because Courts of Justice in Ireland appear to consider the Catholic Clergy as only bound to Secrecy, in such cases, by a mere form of *Ecclesiastical regulation*, which of course might yield to the pressure of temporal authority, or the supposed exigencies of public Justice. But it is far more cogent, and, indeed, is inviolable.

We find, too, a peculiar respect towards a trust of this nature evinced by the Established Church.

In the 113th Canon of the Church of England, (see the Body of Canons, drawn up in 1603) there appears the following clause : " *Provided always, that if any man Confess his secret*

Protestant Canon.



## CHAP. I.

Secrets of Con-  
fession.

*“ and hidden sins to his Minister, for the  
“ unburdening of his Conscience, and in order  
“ to receive Spiritual consolation and ease of  
“ mind from him, We do not any way bind  
“ said Minister by this our Constitution, but  
“ we do strictly charge and admonish him,  
“ that he do not at any time reveal and make  
“ known to any person whatsoever, any Crime  
“ or Offence so committed to his Trust and  
“ Secresy, &c. &c.*

Peak's Cases at  
Nisi Prius,  
1791.  
Case of Du Bar-  
re, &c.

Here we feel pleasure in adverting to the sentiments of the late Lord Kenyon, Chief Justice of England, upon a case nearly similar to the present. A case having been cited before him, (the King, v. Sparkes) where the Prisoner, being a Catholic, had made a Confession before a Protestant Clergyman, of the crime, for which he was afterwards indicted, and, that Confession having been permitted to be given in Evidence upon the Trial, he was convicted and executed,

Lord Kenyon's  
opinion.

LORD KENYON instantly declared, with a generous disapprobation of such a proceeding *“ That  
“ he would have paused before he admitted  
“ such Evidence as had been there admitted.”*

In fact, the hardship thus inflicted upon the Catholic Clergy might easily be alleviated, without offering any violence to established prin-



ciples. The Law has already provided for other Cases, perfectly analagous to the present. *For* CHAP. I.  
~~~~~  
Secrets of Con-  
fession.  
Quakers—6  
Geo. 1. c. 6.  
19 Geo. 2. c.  
19 and other  
Statutes.  
*Quakers* (who, from conscientious scruples, re-  
 fuse to take any oaths) are permitted, in all  
 civil cases, to make simple affirmation only ;  
 and such affirmation is rendered, by express  
 Statutes, of equal credit with the Oath of  
 another. Thus we see the rigid rule of Evidence  
 dispensed with, in order to accommodate per-  
 sons who are governed by inviolable principles  
 of a sacred nature.

Again, *Barristers and Attornies* may refuse,  
 when examined in Courts of Justice, to answer  
 any questions *tending to a Disclosure of any*  
*Confidence reposed in them by their Clients* ;  
 nay, they are *not permitted* to answer such ques-  
 tions ; this is the Privilege of the Clients, not  
 theirs. Peake's Evi-  
dence 177 - 8  
Wilson, v. Ras-  
tell, 4 T. Rep.  
753.

Surely, then, a similar protection is due to  
 the Catholic Clergy and People.—Equal respect  
 and tenderness ought, in justice and in courtesy,  
 to be shewn towards their just scruples of  
 Conscience, so necessary to be entertained, so an-  
 cient and long established, and so obligatory  
 upon every feeling of Morality, Honor, and Re-  
 ligion.

## CHAP. I.

Excommuni-  
cation.

III. " The Catholic Clergy are liable to be  
" punished, by civil Action, for excomm-  
" municating unworthy members of their  
" own Communion."

The Power of Excommunication forms a subject, upon which very great pains have been taken of late years, but fruitlessly, to excite odium against the Catholic Clergy of Ireland. Lord Redesdale, who had no intercourse with any Irish Catholics, or any means of obtaining correct information, confidently declared in a great public Assembly, that " Excommunication from the Catholic Church is, in Ireland, not simply a separation from the Body of the faithful, but, to all intents and purposes, an Interdiction, *ab aqua et igni*: that no Catholic dares to administer a cup of cold water, or a crust of dry Bread, or any other necessary sustenance to an excommunicated person: and that the offence which draws down this heavy sentence, is any friendly intercourse which a Catholic may be found to hold with Protestants."

All those assertions, we must distinctly say, are directly contrary to the fact.

The truth is, that this Punishment, so much misrepresented, is actually limited to the " Separation of a Christian, leading a disorderly Life, disgracing his profession, from the

Lord Redesdale.

Cited in the  
Speech of the  
Bishop of St.  
Asaph, printed  
1805.

Real extent of  
Excommuni-  
cation.

“ Christian Congregation, and a banishment of  
 “ such person from the Church.”

CHAP. I.

Excommunica-  
tion.

It amounts to neither more nor less than the removal of a Member of any other Religious Society from that Society, for disorderly and disgraceful conduct, would amount to. There ensues no Interdict against any other person communicating with the expelled Member in *Temporals*, except so far as such Communion may extend to a wanton and contumacious encouragement and approbation of the conduct so punished. On the contrary, the Catholic Discipline expressly declares several kinds of temporal communion to be wholly unaffected by Excommunication. They are compressed, for brevity's sake, in the following Line :

“ *Utile, Lex, Humile, res ignorata, necesse.*”

These five Heads of Exception to the temporal consequences of Excommunication are so comprehensive, as to embrace every supposable temporal case : they are construed with great indulgence, and accepted with every Latitude. The Excommunicated person retains his claim to all the offices of Charity, to relief in his necessities, to employment for his Industry, to associate with others for all useful or necessary purposes, and to maintain the ordinary Relations of Society, as Master, Husband, father, soldier, Trader, &c. &c.

## CHAP. I.

Excommunication.

As for Excommunication of any person for associating with the expelled Member, or even for encouraging and abetting him, we believe that no instance of the kind has occurred : at least, none with the sanction of any Catholic Bishop in Ireland.

Few instances of Excommunication.

The Catholic Clergy have been unjustly accused of pronouncing this Sentence in light and frequent cases.—Now, on the contrary, it is reserved as the punishment of crimes of gross enormity or turpitude. Only two instances of it have occurred, during the last 24 years, in the populous Arch-Diocese of Dublin, wherein, from the vicious habits of a great Capital, the most numerous instances of the exercise of this power may naturally be supposed to have existed.—During the preceding 17 years only two other instances of the like nature occurred—Yet none of the persons, so excommunicated, appear to have suffered any temporal injury from the sentence. They have continued in their respective Trades and occupations : have not been in any manner molested : and they have met their Catholic Neighbours, and been dealt with, as before.

Discreetly exercised in Ireland.

So discreetly, too, is the exercise of this Power limited, and so jealously is it watched, by the Catholic Hierarchy, that, according to the Discipline of the Catholic Church in Ireland, no



Clergyman of the second order can issue an Excommunication without previously laying the case before the Bishop of the Diocese, and obtaining his sanction for proceeding to this last of spiritual Punishments.

CHAP. I.

Excommunication.

It is, then, a matter of just and grievous complaint amongst the Catholic Clergy of Ireland, that the exercise of this species of jurisdiction has been assailed by Judicial decisions, of recent date, declaring it to be obnoxious to the Laws, and punishable equally with common defamation. These decisions, coupled with strong declarations from high authority, hostile to the existence of a Catholic Hierarchy, amount to a public avowal of an intention to extinguish all Power and Jurisdiction enjoyed by the Catholic Clergy, even with the voluntary concurrence of the People. If, indeed, the Catholic Clergy, under the pretence of Excommunication, sought to establish an arbitrary right of overstepping the legitimate boundaries of this Jurisdiction, at their discretion; for instance, in adding slander or defamation to the Language of the Sentence, in cautioning the public against the expelled member, as immoral, &c. by injuring him in his Trade, or by similar extra-official Acts:—If they sought to deprive him of his temporal Rights, or to subject him to the

Boyle v. Mac-  
Laughlin, King's  
Bench, Easter  
Term, 1810.



## CHAP. I.

Excommunica-  
tion.

temporal Penalties annexed by the Laws of these Realms to Excommunication—then, indeed, they could not complain of being deprived of the exercise of this Power. But they neither profess, nor mean, any such thing. Excommunication, as understood by them, we have already described to be “*a mere Separation of a person from the faithful in Spirituals.*” Of this Right no power upon Earth can divest them. If they refuse to admit to Communion a notorious Sinner, or an incorrigible Delinquent, how can the Laws take cognizance of such refusal? Yet this is a species of Excommunication.

Excommunica-  
tion known in  
all other Religi-  
ons.

Rex v. Hart,  
1 Blacks. Re-  
ports, p. 386.  
Burn's Eccles.  
Law, vol. 2. p.  
279.

All Classes of Religious Dissenters, Presbyterians, Quakers, &c. and even Jews, exercise this Right of Excommunication. Nay, it is a Right, recognized by express Decisions of the Courts of Law in England. It is inherent in the Constitution of every Community, Civil and Religious. If a member of such a Community acts disgracefully in it, or chooses to violate its settled Rules and Laws (*and which he must be taken, as a member, to have assented to*) nothing seems more reasonable or necessary, than that the Community, or its chief members, should exercise the right of expelling him. And, if any consequences, injurious to his interests or reputation, should happen to

result from such expulsion, it would be an enormous injustice to compensate the Offender at the expence of the Community, who were so compelled to remove him.

CHAP. I.

Excommunication.

There certainly appears great reason to question the Soundness of the Principle of Law, upon which it has been decided, that “ An Action at Law may be sustained, to recover Damages from a Catholic Clergyman, for a mere Excommunication.” For, if the Catholic Worship be erroneous, as is pretended, if the Catholic Religion and practices be dangerous, and fit to be stigmatized and discountenanced by the Laws, surely it would follow, and the Law ought to presume, that the removal of any person from the Catholic Community, howsoever effected, must be rather a benefit to him, than an Injury. He ought, therefore, not to be deemed entitled to complain of such removal ; but rather be congratulated as a fortunate Person, extricated from an unhappy Society, which is condemned by law, or barely permitted to exist to a partial extent, and under hard conditions.—His temporal condition must derive admitted advantages from such a removal—and, though his prospects in the world to come may be somewhat impaired by the untoward event, yet this is a supposition that the present

Doubts upon  
the Judicial  
Decisions.

CHAP. I. Code of Laws cannot entertain or act upon.

Excommunica-  
tion.

The question may possibly be brought under solemn discussion hereafter, and finally settled.

At present, the doctrine appears to be as unreasonable and unfounded, as it is vexatious and harrassing to the Catholic Clergy of Ireland.

Prevented from  
attending the  
Soldiers and  
Sailors.

IV. " The Catholic Clergy are denied the  
" permission (and sometimes even in  
" Ireland) to perform the Rites of their  
" Religion for the Catholic Soldiers and  
" Sailors."

This Interdiction, and its extent, shall be treated of hereafter, in the Chapter detailing the Disabilities which affect the Catholics in the Army and Navy.

Divine Service  
unprotected.

V. " The Catholic Clergy are unprotected  
" by any Law, prohibiting the disturb-  
" ance of Divine service, whilst cele-  
" brated by them."

6 Geo. I. ch. 5  
Sect. 14. Pro-  
tects Dissent-  
ers.

It is observable, that the celebration of Divine Worship in other Dissenting Congregations in Ireland is protected by an express Act of Parliament, imposing a Penalty of £20 upon any person disturbing it.—This is but reasonable.

English Catho-  
lics protected by  
Law.

And in England, the Catholic Worship is protected in like manner, by an English Statute of 31 George III. ch. 32. (1791.)

VI. "The Catholic Clergyman, bound by CHAP. I.

- "his vows to a life of Celibacy, and  
 "generally in narrow circumstances,  
 "feels the harshness of being held  
 "liable to the payment of a modern tax,  
 "called *Bachelor's Tax*."

*Bachelor's Tax*  
 levied upon Ca-  
 tholic Clergy.

This Tax was, doubtless, levelled only against Unreasonable;  
 persons, more able to contribute to the public  
 Revenue, and more likely to be compelled by it  
 to enter into Matrimony. Had the Catholic  
 Clergy been duly recollected and respected by  
 the State, they would have been deemed well  
 entitled to an express clause of exception from  
 the payment of this tax, in the annual Revenue  
 Act. Notwithstanding, it has been demanded,  
 and exacted.

VII. "In various other instances, the Ca- Other grounds  
of complaint.

- "tholic Clergy have reason to complain  
 "of the insult or injustice legally  
 "inflicted upon them."

1st. They are interdicted (as we shall see in No Endowment  
of a Catholic  
Clergyman, or  
House of Wor-  
ship, &c.  
 the next Article) from receiving any endowment  
 or permanent provision, either for their own  
 support, or for that of their Houses of Wor-  
 ship, &c.

2. They receive no public recompence for No recompence  
as chaplains to  
public institu-  
tions.  
 their arduous and unremitting attention in the



CHAP. I. performance of the necessary Religious duties in Hospitals, Asylums, Gaols, Workhouses, and similar public Establishments.

Services as  
Chaplains, &c.  
unrequited.

It appears to be a self-evident proposition, that every duty of a public nature ought to be provided for at the public expence. This truth is partly recognized by the Legislature itself, in carefully nominating to each of those institutions a Chaplain of the Protestant Church with a suitable salary. This regulation, however, affords only the appearance of Spiritual aid, not the reality: for it is notorious, that the services of these Chaplains are never accepted by the unfortunate persons (mostly Catholics) for whom they are nominally provided. Indeed, this outward form of Religious attendance is, to the Catholics, little better than a mockery. They can derive real benefit from the ministry of a Catholic Clergyman alone.

County Gaols. As for the *County Gaols* of Ireland, a certain limited compensation, under special restrictions, has been recently (by a Statute enacted in 1810) provided for such Catholic Clergymen as the respective Grand Juries may be pleased to nominate for the purpose of officiating as Chaplains. But here too, from the ignorance of the framers, their neglecting or disdaining to con-

Imperfection of  
the Statute of  
1810.



sult the Catholic Clergy, and the supercilious management of the entire transaction, this Statute has fallen far short of its professed object. In some instances, it has proved even pernicious, by exciting discord between the Grand Jury and the Catholic Bishop of the District. These mischiefs might have been avoided, by timely caution and ordinary prudence in preparing this Law.

3. Again, the Catholic Priest is expected, in times of public disturbance, to perform the duties of the civil Magistrate. Catholic Priests obliged to act as Peace Officers.

Generally it is taken for granted, that he is privy to every occurrence in his Parish; that he can procure Information, detect crimes, point out criminals, and even prevent any breach of the Peace, if he thinks proper. The neighbouring magistrate, therefore, continually applies to him for such purposes, and sometimes in a tone of command or menace. He considers him as responsible for the peace of his Parish, and for the good conduct of the Parishioners. He requires him to devote his time and attention (which are scarcely sufficient for the discharge of his pastoral Duties) to the occupations of a *Peace Officer*; such as discovering stolen property, denouncing felons, ad- Severity of such treatment.

## CHAP. I.



vertising rewards, &c. Thus, whilst the Magistrate or Peace Officer, as by Law established, virtually *abdicates* his peculiar functions, or transfers them to the proscribed priest, the latter is burdened with all the inconvenience, solicitude, and odium of performing them.

Should he decline such tasks, or appear remiss in undertaking them, he incurs severe censure, and, perhaps, considerable personal danger. Should he, on the other hand, prove obsequious, no compensation, profit, or reward, awaits him; probably, not even barren thanks, or approbation. And if, eventually, he proves fortunate enough to avoid suspicion, to avert the imputation of being himself a fomentor of outrage, a concealer of Felons, and a dangerous disaffected *Papist*, it is the utmost he can reasonably aspire to, as the consummation of the affair, whatever may be his diligence, his fidelity, or his complaisance. Such is the general Experience.

Propriety of relieving the Catholic Clergy.

It is now high time to release the Catholic Clergy of Ireland from all these vexatious, unavailing, and impolitic restraints and regulations. Their respectable situation in the Community, their acknowledged public utility, their pure and exemplary conduct under the severest trials, and the merited regard and reverence in which they are held in Ireland, by upwards of

FOUR MILLIONS of the People, entitle them to a very different treatment from that which they now experience. CHAP. I.

What good cause can possibly exist for the pointed scorn and hostility uniformly evinced towards the Catholic Hierarchy of Ireland, we are utterly at a loss to imagine. In every class of Christians, and in every Religious society, there is probably some Hierarchy or other, tho' all under different titles. For the purpose of providing a succession of ministers, of defining rites and discipline, of maintaining internal subordination, and of restraining from vice and impiety by the authority of sacred functions, it has been deemed expedient, in other Dissenting congregations, to prescribe certain forms and powers of ordination, gradations of rank, and cases of correction or of exclusion, when the gross misconduct or pernicious example of individual members calls for censure. The Protestant Dissenters have also their Districts, their Congregations, Synods, Elders, Readers, &c. Why, then, should similar internal regulations amongst the Catholic Clergy afford matter of alarm and grievous offence? Besides, it is to be recollected that in the Catholic Church of Ireland a regular Hierarchy, and gradation of Clergy, have existed immemorially with appro-

Hostility against  
the Catholic  
Hierarchy un-  
wise and un-  
founded.

Catholic Hierarchy of immemorial origin.

## CHAP. I.

Catholic  
Hierarchy.

Useful and  
honourable.

priate districts, in which they respectively officiate : and that their congregations consist, not of a handful of gentry and tradesmen, but of an immense proportion of the people, at least five sixth parts, comprizing persons of every order and degree in society. No person, not prepossessed against the sacred order generally, will pretend that the existence of such a Catholic Hierarchy in Ireland can possibly prove injurious to the morals or principles of the people. Long experience has proved the contrary. It has shewn, in abundant and brilliant testimony, that the Catholic Hierarchy of Ireland, unendowed, unsalaried, unpatronized as they are, have deserved highly of their country, and that their piety, benevolence, patience, fidelity, conscientious discharge of their sacred duties, their uniform virtues, decorated by splendid talents, assign to them a rank of estimation, not inferior to that of any Spiritual order that has appeared since the earliest ages of Christianity. It must, therefore, be admitted by every reflecting man, that a prudent Legislature, viewing this subject wisely and liberally, should immediately adopt the most comprehensive measures for the effectual relief of the Catholic Clergy. It should place this estimable class of men in a



situation, not merely of connivance or bare permission to fulfil their duties, but of actual facilities and marked public encouragement for that purpose : and this, without any compromise or stipulation whatsoever.

CHAP. I.

- VII. “ The Law forbids the permanent Catholic endowments, &c. forbidden.  
 “ Endowment of any Catholic Clergy-  
 “ man, House of Worship, School-  
 “ House, or other pious or charitable  
 “ Foundation for Catholics.”

Whilst the Members of all other Religious Persuasions in Ireland are permitted to provide for the permanent maintenance of their respective Ministers of Worship, and of the establishments connected with their respective tenets, the Catholics alone are denied this permission.—Reproached, as they frequently are, with the poverty of their Clergy, the misery of their people, and the supposed ignorance of their poor, they are forbidden, by Law, to resort to the necessary measures for supplying these deficiencies.

The Catholics, though they see in silence that all the National Charities, Legislative endowments, and pious funds, are absorbed in Protestant institutions, and monopolized by the ruling class, yet have not claimed their proportion of those Grants. They have not contended, as they well might, that they, as composing such an immense Their Charitable Foundations entitled to a due share of the Public Money.



CHAP. I. Majority of the People, have an undoubted

Catholic endow-  
ments, &c. for-  
bidden.

Right to an equitable apportionment of public money, towards the Charities and pious uses of their own Religion. But they complain, and loudly, that the Laws prohibit them from applying any part of their own particular property, perhaps acquired by personal industry, towards establishing those necessary funds for Charity and Religion, which the Legislature has abandoned to neglect and insolvency.

Injustice of this  
prohibition.

It seems unjust to refuse all national aid, all participation of public bounty, to those great and salutary objects. But it is too much to forbid the Irish Catholic to exercise his benevolent feelings towards Catholic foundations, to debar him from settling a moderate annuity or piece of Land upon his own pastor for the time being, from granting or procuring a long Lease of the site of a Catholic Chapel or School-house, or endowing any of those valuable Charities, permanently, with suitable means of maintenance; nay, even to render these prohibitions the source of habitual obloquy, ridicule, and reprobation, against the Catholic Community.

Obscurity of the  
Law of charities  
in Ireland.

### THE LAW OF CHARITIES,

As now in force in Ireland, is involved in some obscurity. The highest Judicial Authorities

have, even recently, admitted the difficulty of tracing the doctrine of this subject.

CHAP. I.

Catholic endowments, &c. forbidden.

The Law of England differs materially from that of Ireland respecting Charitable donations, owing chiefly to two important Statutes in force in England, which have not been enacted in Ireland; namely the Statute of the 1 Ed. 6. c. 14. and that of 9 Geo. 2. c. 36, *English*. Of these we shall treat presently.

The Law in England differs from that of Ireland.

However, we apprehend that the following view of the Law of Charities in Ireland will be found correct. *First*, as to Donations of *Lands*; and, *Secondly*, as to Donations of *Money*, or other personal property.

1. As to *Donations of Lands*.—By the English Statutes of 7 Ed. 1. Stat. 2. and 15 Richard 2. c. 5. (which, being previous to the 10 Hen. 7. are in force in Ireland) it was enacted,

Donations of Lands.

That “No Corporation, civil or Religious, should purchase any Lands in Mortmain, under penalty of forfeiture of the Lands purchased.” That is to say, that no Religious House, or any Bishop, Priest, &c. for himself and his successors, should, or could, take any Interest in Land, &c. for support of the House, or of the Bishop, Priest, &c. for the time being, and his Successors.

Mortmain acts.  
7 Ed. 1. Stat. 2.  
15 Richard 2.  
ch. 5. *English*.

## CHAP. I.

Catholic endowments, &c. forbidden.

Exception to Mortmain acts in favor of Protestant charities.

Thus, Gifts of *Land* to Corporations, Civil and Religious, and purchases by or for them, were declared generally void.

However, subsequent exceptions have been made, by express Statutes, in favor of certain Protestant institutions, and of such Corporations as the King should think proper to license.

10 Charl. 1. Ses. 3. ch. 1.

For, in 1634, it was enacted by the Parliament of Ireland, that “ All Archbishops and Bishops “ in Ireland may be compelled in Chancery, or “ by Petition to the Council Board, to execute “ Trusts and Conveyances to them, of Lands or “ hereditaments,” for certain purposes specified by the Act, *which alone are thereby declared to be lawful and Charitable purposes* ; such as building and repairing Protestant Churches, Colleges, Schools, or Hospitals, Bridges or Highways, Maintenance of Ministers and Preachers, &c. This Statute legalizes the several institutions and public purposes therein enumerated ; and subsequent Statutes have also, upon the same principle, dispensed with the Mortmain Acts in favor of various kinds of Donations.

Nearly similar to the English Statute of 43 Eliz. ch. 4 but mutilated on the Roll.

10 and 11 Charl. 1. ch. 2.

As, of Impropriations of Protestant benefices, glebes, tythes, and other rights, heretofore deemed ecclesiastical, to be granted to the Protestant Clergy.

Of endowments of Churches with Glebe Lands. CHAP. I.

To various Protestant Corporate Bodies, by force of several express Statutes, enacted from the year 1704 to the present time ; and empowering those several Corporations to take and purchase Lands, in perpetuity, for the Maintenance of themselves and of their Successors, and for the permanent support and prosecution of the purposes, for which those Corporations were respectively formed.

Catholic endowments, &c. forbidden.

15 Charl. 1. ch. 11.

2 Anne, ch. 10 and 19. 6 Anne, ch. 19. 4 Geo.

1 ch. 14. 10 Geo. 1. ch. 7. 11 and 12 Geo.

3 ch. 11. 15 and 16 Geo. 3. ch. 38. &c. &c.

Finally, in 1792, an Act of Parliament was passed, whereby “ His Majesty, his heirs and

32 Geo. 3. ch. 31.

“ Successors, are authorized to grant *Licences* “ to any person, body politic, or corporate, to “ grant or to purchase, acquire, or take Lands “ in Mortmain :” that is, in the manner forbidden by the old Mortmain Acts, already mentioned.

Similar to the Stat. 7 and 8 Will. 3. ch. 37. English.

Thus, the prohibition being general, and the exceptions limited to Protestant institutions, or to such lawful purposes as the Crown may direct, it follows, that the Catholics remain, at this day, disabled from endowing any of their Charities with any Lands, or Interests in Lands : and this in three ways, viz.

No exception from the Mortmain acts in favor of Catholic charities.

I. If a person were to grant Lands to a Catholic Charity, as, for the maintenance of the

No Catholic corporation capable of taking Lands, &c.



## CHAP. I.

Catholic endowments, &c. forbidden.

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Pastor, the support of the Chapel, school, &c. there exists no Catholic Corporation, civil or religious, legally competent to take such Lands in trust, or competent to any other purpose: for the Law does not recognize the Catholic Bishop, or Priest, and his successors, as a body corporate, for any purpose whatsoever.

No license from the crown in their favour.

2. Even if there did exist a Catholic Corporation, it could not take Lands without a License from the Crown: and, under the present system of Penal Laws, such a License is not to be expected.

Catholic charities not a good charitable use, by Law.

3. If a Catholic Corporation were even to obtain such a License, it would not (neither would any individual) be enabled to take Lands for any other than *Charitable and lawful purposes*, as recognized by existing Law. Now there is every reason to apprehend (as we shall presently show) that it would not be deemed a *good Charitable use*, within the Policy of the Law, to apply the income of such Lands towards the support of Catholic Clergy, schools, or similar foundations.

Post p. 39.

Donations of money, &c.

2. As to *Donations of Money*, or of other personal property.

Not expressly prohibited in Ireland by any Statute.

It is true, that Donations of this nature, for the permanent Support of Catholic Charities,



do not appear to be prohibited by the *express* CHAP. I.  
*Letter* of any Statute, enacted in *Ireland*.

Catholic endowments, &c. forbidden.

In England, indeed, such Donations are declared illegal, by a celebrated Statute (enacted in the infancy of the Reformation) which enumerates a great variety of Gifts and Charities of this nature, terms them *Superstitious Uses*, and vests them in the King, who is empowered to direct and appoint them “*in eodem genere*,” so as that they can never revert to the Donor or his representatives, *but are to be appropriated to Protestant Institutions*.

English Stat. 1 Edw. 6. ch. 14.

Prohibited by express Statutes in England.

And appropriated to Protestant charities.

By this Statute, a *Superstitious Use* is declared to be, “Where Lands, Tenements, Rents, Goods, or Chattels are given, secured, or appointed for, or towards, the Maintenance of a Priest or Chaplain, to say Mass; of a Priest or other Man to pray for the souls of the Dead or of any Dead person, or to maintain perpetual Obits, Lamps, &c. to be used at prayers for Souls:” these, *and such like*, are *Superstitious uses*.

Definition of a superstitious use.

It is also laid down, that not only by force of this Statute, and of other Statutes, (as 15 Rich. 2. c. 5. 23 Hen. 8. c. 10. 37 Hen. 8. c. 4.) but also generally as Head of the Church, and as entrusted by the Common Law, to see that nothing is done in maintenance or propaga-

Bacon's abridgment, vol. 1. 581.

4 Co. Rep. 104 Cro. Jam. 51. Salk. Rep. 162.

## CHAP. I.

Catholic endowments, &c. forbidden.

*tion of a false Religion, the King is entitled to all such Grants, Gifts, &c. so as to appropriate them to other uses, that are held lawful and truly Charitable.*

Obnoxious to the *Common Law*.

If such, then, be the ancient and established principles of the Common law, they must guide courts of justice in Ireland, as well as in England. And it follows, that all gifts and grants of Lands, Money or Goods, in Ireland, to or for the support of a Catholic Pastor of a parish, &c. are as fully comprehended in the prohibition, as if the Statute of *Edw. 6.* had been enacted in Ireland.

Mr. Mitford, in *Cary, v. Abbot*, 7 Vesey, junr. 492. 18c2.

Indeed, it has been held, by very respectable authority, and not controverted, “ That superstitious uses are void, not merely by the statute Law of England, but also by the *general policy of the Law.*”

This argument of *general policy*, being of an undefinable nature, may be pushed to any extent, that may appear to a Chancellor necessary for defeating an intended donation to a Catholic Charity.

*Ibid*—Sir W. Grant.

The Master of the Rolls in England (Sir William Grant) thus expresses himself: “ There is no doubt that a disposition, for the purpose of bringing up and educating children in the Catholic Religion, is *unlawful.*” And in

Ireland too, in a very recent case, the Lord Chancellor (Manners) intimated a strong leaning against the validity of a similar disposition; and, although the case has not been finally decided, yet there appears but little room to doubt, that his Lordship adopts the construction already received in England.

CHAP. I.

Catholic endowments, &c. forbidden.

Commissioners of charitable bequests, *v.* Dr. Bray, Dr. Power, and others—April 21, 1809.

It is, therefore, not too much to affirm, upon a view of all these circumstances, that *no person can safely give or grant any Lands, Money, or other property, to or for the permanent support of any Catholic Priest, House of Worship, School, or Charitable edifice, or foundation of any description in Ireland;* subject as such donations must be to serious doubts and difficulties. That such Donations would probably be diverted to Protestant institutions, directly contrary to the donor's interest, is a prospect sufficiently discouraging to deter any rational person from granting it. This may be taken, therefore, to amount to an *actual and positive prohibition.*

Hence all donations to Catholic charities are void.

Nor is the prohibition dormant. For the Irish Legislature has carefully established a new Ecclesiastical Board, whose province it is to detect Catholic charities, and to appropriate their funds, when detected and seized, to the better maintenance of Protestant institutions. To facilitate this object a special Corporation has been embodied,

Commissioners of Charitable Bequests.

## CHAP. I.



under the plausible title of “ Commissioners of Charitable Bequests.” This corporation deserves

Alertness of this Board in pursuing Catholic charities.

notice, by reason of its alertness in hunting down Catholic Charities—It originated as follows :

Its origin—Stat. 3. Geo. 3. ch. 10, 18.

In 1763, it was enacted, that all Charitable donations, contained in Wills, should be published, very particularly, three times successively in the Dublin Gazette, at the expence of the Executor, within three months after obtaining probate of the Will, under a penalty of £50, in case of his neglect ; and, also, that extracts from such Wills should be lodged by the proper officers in each diocese, annually, with the clerks of each House of Parliament.

Penalty of 50*l.* against Executor, &c. not gazetted Charitable Bequests, three times, therein.

Its preamble.

This Statute was made, obviously, for the wise purpose of checking the embezzlement of Charitable donations, a practice but too common in Ireland, as well as in England : and, indeed, it recites as its principle, that “ The pious  
“ intentions of many charitable persons were  
“ frequently defeated by the concealment or  
“ misapplication of their donations or bequests  
“ to public or private charities in this king-  
“ dom.”

Lord's Journals 1764—nominating a committee;

In consequence of this act, an order of the House of Lords of Ireland was made, in 1764, appointing a committee of that House (consisting mostly of Bishops) to carry its purposes into



effect. Thus the Law stood until the year 1800, CHAP. I.  
 when the present Corporation was established by  
 a new Act.

This new Act (not to alarm public jealousy) <sup>40 Geo. 3. ch. 75—constituting the corporation of Charitable Bequests.</sup>  
 professes to be an amendment of the former  
 Act. It recites the appointment of the Com-  
 mittee of the Lords, and its exertions; and then  
 proceeds thus :

“ And whereas, by the Union of Great Britain  
 “ and Ireland, such Committee will be discon-  
 “ tinued, and the pious intentions of many chari-  
 “ table persons will be, thereby, hereafter (as  
 “ before the said Committee was appointed) <sup>Its preamble.</sup>  
 “ defeated by the concealment and misappli-  
 “ cation of their donations or bequests to public  
 “ and private Charities in this kingdom; and  
 “ it is expedient and necessary, that some  
 “ public Body should be constituted and ap-  
 “ pointed to watch over such charities and  
 “ bequests, and to enforce the application of  
 “ them to the purposes *designed and intended*  
 “ *by the pious donors thereof.*”

This is the preamble—the key to the meaning <sup>Plausible pre-  
 fession.</sup>  
 and construction of the act. It appears  
 at first view, to be solely directed to do-  
 nations concealed or applied to purposes *con-*  
*trary to the pious intent* of the donors; of  
 which the Trustees of numerous old charitable

## CHAP. I.

Commissioners  
of Charitable  
Bequests.

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donations to Protestant Schools, and other institutions in Ireland, had afforded flagrant and scandalous instances. Little could it be suspected, however, that this Statute was calculated principally, (under pretence of amending the act of 1763) to raise a new barrier against Catholic charities; and, by enabling a regular array of Commissioners to sue legally as a Corporation, to remove from the Attorney General (whose legitimate province it was) the odium of filing informations, of his own authority, for the confiscation of Catholic bequests.

40 Geo. 3. ch.  
75. Sect. 1.  
appointing the  
Commissioners;  
mostly bishops  
and other clergy.

This Statute first appoints the Commissioners: consisting of all the Archbishops and Bishops of Ireland, the Judge of the Prerogative Court, several other clergymen, incumbents of parishes, with the addition of the Chancellor and Twelve Judges, all for the time being.

Sect. 2.

It next ascertains their jurisdiction; which is, indeed, both extensive, and formidable to all heterodox donors.

It enacts, "That the Commissioners and  
" their successors may sue in every court  
" in this kingdom, either of Law or Equity,  
" for the recovery of every Charitable do-  
" nation or bequest, which may or shall  
" be withheld, concealed, or misapplied: and

“ apply the same, when recovered, according CHAP. I.  
 “ to the intentions of the donors ; or in Enlarging the  
 “ case it be inexpedient, unlawful, or im- powers of the  
 “ practicable to apply the same strictly ac- Commissioners,  
 “ cording to the directions and intentions of so as to reach  
 “ the donors, then to apply the same to such Catholic chari-  
 “ charitable and pious purposes as they shall ties, & . and  
 “ judge to be nearest and most conformable to seize their funds.  
 “ the directions and intentions of the donors,  
 “ with full costs, to be paid to the said Com-  
 “ missioners out of the Charitable dona-  
 “ tions.”

The third Section merely declares, that five Sect. 3.  
 Commissioners shall constitute a *Quorum*, but  
 that an Archbishop or Bishop shall always be  
 one.

The fourth Section directs, that the returns of Sect. 4.  
 those Charitable legacies, which were by the  
 former act directed to be made to the clerks of  
 Parliament, shall, in future, be lodged with the  
 Secretary of this new Board.

Thus has the Irish Parliament, in the last  
 year of its existence, solemnly organized a power-  
 ful Inquisition, vigilant and eager in the pursuit  
 of its prey, and armed with every necessary  
 authority for discovering and seizing the funds  
 destined, by dying Catholics, for the maintenance

## CHAP. I.

of the pious and the poor of their own Communion.

Effect of the  
new act  
upon Catholic  
Legacies.

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For instance, a Catholic bequeaths certain small annuities, for the decent support of his Parish Priest, the occasional repairs of the Catholic Chapel, and the better education of the youth of the parish; and he confides the fulfilment of his pious intent to two solvent and upright Executors, of his own choice and approbation. Upon his death his Executors are obliged, under penalty of £50, to publish these bequests, with every particular circumstance, three times successively, in the Dublin Gazette, within three months after obtaining probate of the Will. Thus, or through some other channel, these bequests attract the notice of the Commissioners of Charitable bequests, or of their Secretary, &c.

Information  
filed.

They instantly file an Information in the Court of Chancery against the Executors, alledging,  
 “ That those bequests were given to *unlaw-  
 ful and superstitious Uses*; that they  
 “ are therefore vested in the King, who, in  
 “ his capacity as Head of the Church, is en-  
 “ trusted, by the Common Law, *to see that  
 nothing is done in propagation of a false  
 Religion*: that those bequests, though un-



CHAP. I.

Commissioners  
of Charitable  
Bequests.

“ lawful, cannot even revert to the representa-  
 “ tives of the donor: for, having manifested *some*  
 “ Charitable intent, but mistaking the legal mode  
 “ of effecting it, he is to be considered as having  
 “ given the bequest to *general* purposes of  
 “ Charity, of which the King is authorized  
 “ to select the legal objects. That, therefore,  
 “ the King is to direct and appoint the appro-  
 “ priation of these bequests, *in eodem genere*,  
 “ to Protestant charities, such as shall appear  
 “ to be the nearest and most conformable to  
 “ the charitable intentions of the donor: or  
 “ (technically speaking) to execute those in-  
 “ tentions *cy pres*.”

The Commissioners, proceeding in such an  
 Information, will, of course, be entitled to the  
 benefit of the above-mentioned Statute; they  
 may recover and apply the bequests according  
 to its provisions; and (lest any hazard should  
 deter them) their full costs and expences are  
 directed to be reimbursed to them out of the  
 Charitable donations, although the Executors  
 resisting such Informations are not allowed a  
 similar indemnity.

Suffice it to say, respecting the general conduct  
 of this Board, that their zeal and activity in the  
 discharge of their Inquisitorial functions have

Their zeal in  
 frustrating Do-  
 nations to Ca-  
 tholic charities.

## CHAP. I.

Commissioners  
of Charitable  
Bequests.

completely succeeded in frustrating every attempt of the Irish Catholics to provide any permanent maintenance for the Ministers of their worship, their places of education, or other pious or Charitable foundations.

This state of things is to be deplored, in every point of view. The prohibition is not merely churlish and ungracious in itself, but highly injurious to the country in its hope of improvement and civilization. It is directed peculiarly, too, against the Catholic Clergy and charitable institutions: for those of other Religions are exempt from it. The Established Religion, as we have already seen, enjoys every facility for similar purposes. Numerous Statutes have been framed, expressly, for removing all impediments in the way of donations, even of Lands, to various ecclesiastical bodies of the Protestant Faith.

10 Cha. 1.  
Sess. 3. ch. 1.

10 and 11 Cha.  
1. ch. 2. 13 Cha  
1 ch. 11.  
2 Anne, ch. 10  
and 19 &c. &c.

Ves. Rep.  
273.—3 P. Wil-  
liam, 346. 1  
Bac. abridg.  
582. Gwyllim's  
Edit.

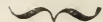
By Lord Thur-  
low, Isaac. v.  
Gomperty, cited  
in 7 Vesey Junr.  
p. 494.

Charitable donations, in favor of Protestant Dissenters and their establishments, are held valid in Ireland, as well as in England, under the Toleration act of *Will. 3.*

Even an establishment for the education of *Jews* is held to be a legal and valid Charity.

Surely, then, under all the peculiar circumstances of the present times, and especially of the People of Ireland, it would be but wise and

## CHAP. I.

Commissioners  
of Charitable  
Bequests.

reasonable to extend full protection to donations of every kind for Catholic charities, and for the maintenance of Catholic worship.

Towards other purposes, far inferior in national importance and value, the Legislature has evinced a laudable favour; nay, has in some instances interfered to remove the impediments of family settlements, solemnly perfected.

Thus, a *Tenant for life*, with immediate remainder to his issue, is empowered to grant twenty acres of land for ever, towards endowing a Rectory with glebe, <sup>3 Geo. 2. c. 11.</sup>  
<sup>31 Ch. 2. c. 11.</sup>

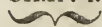
A tenant in tail, in possession, may grant forty acres of land, for the like purpose. <sup>23 and 4 Geo. 3. c. 49.</sup>

Tenants *for life*, in tail, or in fee, Corporations, bishops, and dignitaries, may grant one acre of land for ever, for the purpose of building a new Church. <sup>19 Geo. 2. c. 16 Sect. 3.</sup>

The like powers are, by various statutes, granted to tenants *for life* (or for other limited estates) for granting lands for ever, or for very long terms, in order to encourage the building of County infirmaries, hospitals, fishery houses, mills, corn-markets, light-houses, watch-houses, Dublin work-houses, Charter-schools, for encouraging bleach-greens, linen manufactures, and other local and partial objects. Even the legal impediments of infancy, of trusts out-

<sup>5 Geo. 3. c. 29, Sec. 3. 7 Geo. 3. c. 8. 17 and 18 Geo. 3. c. 15. 1 Geo. 3. c. 8. 21 and 22 Geo. 3. c. 37. 25 Geo. 3. c. 35. 25 Geo. 3. c. 62. 27 Geo. 3. c. 31. 27 Geo. 3. c. 57. 3 Geo. 3. c. 34. 5 Geo. 3. c. 9. 27 Geo. 3. c. 20. &c. &c.</sup>

## CHAP. I.



standing, &c. are, in many instances, removed in order to facilitate the various purposes we have enumerated.

Catholics alone  
are disabled  
from endowing,  
&c.

Yet no facility is afforded by law, nay, the bare permission is not accorded to a person possessing full dominion over his property, for exercising his benevolence towards objects, so necessitous and so interesting, so extensively important and valuable as those of Catholic education, and the maintenance of ministers and houses of worship for the people of Ireland.

Willingness of  
opulent Catho-  
lics to contri-  
bute.

Many opulent Catholics are fully sensible of the poor and destitute state of their community in those respects, and of the public advantages which would result from an amelioration. They are willing to contribute liberally for this purpose, by donations and bequests ; and, perhaps, to a larger amount than is generally imagined.

Public benefit of  
affording en-  
couragement in  
this respect.

Few of all the plans, upon which public edifices are erected, or legislative encouragement afforded, in Ireland, would tend more to improve, and even embellish, this country, than that of raising a multitude of such Structures throughout Ireland, suited to the exigencies of the People, supported by their gratitude, and providing accommodation for their public instruction, their poor, and the celebration of the rites of the national Religion. The general de-



iciency of Ireland in this particular has been a subject of surprize and regret to every stranger, who has cast his eyes over the face of this country. The cause is now manifest.

That the Catholics are well entitled, upon every principle of public policy and justice, to claim a share, and a *large share*, of the public revenue of Ireland, for the maintenance of their schools, houses of worship, pastors, and other charitable objects, is a proposition pretty clear to the eye of reason: their numbers, industry, and importance, the vast aids they afford to the state, and the national advantages and expediency of the measure itself, must silence every doubt upon the subject. Yet they are not only precluded from their just share of support, (for we cannot stoop to notice the miserable pittance which annually insults the Maynooth establishment) but they are *denied the permission to defray those charges out of their own means, and to secure the due and permanent appropriation of their money for the fulfilment of their benevolent intentions.*

No liberal mind can review the conduct of the Irish Legislature, in this particular, without extreme disgust.

Altogether, it exhibits a picture of the narrowest policy, the grossest abuse of power, the most

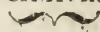
Just claims of  
Catholic chari-  
ties, &c. to pub-  
lic support.

Narrow policy  
of the Irish  
Legislature.

## CHAP. I.

stupid neglect of an interesting public duty. We see them, habitually, regardless of the great trust of honestly superintending the most awful public institutions, adverse to every measure for providing or permitting a decent maintenance for the national form of worship, negligent about the education of the great mass of the population, the improvement of their habits, the comforts of their Pastors and Teachers, and, indeed, generally cold and indifferent to the amelioration or future fate of their fellow-countrymen, their tenants, labourers, &c. whose money and labour they have, nevertheless, always deigned to accept, without offering any equivalent in return.

Finally, the Irish Legislature, as we have observed, in the very hour of their extinction, raised this lasting monument of their uncharitable spirit; the Statute of 1800, creating the corporation of "Commissioners for discovering Charitable Bequests in Ireland."



## CHAP. II.

*Of the Laws which deny to the Catholics the right of sitting and voting in the Houses of Legislature; and herein, of the Elective Franchise, as enjoyed in Ireland.*

EXCLUSION from all share in the Legislative power is a grievance of so weighty a nature, and especially under the present system of Government in this Empire, that it claims our principal attention, next after the subject of the foregoing chapter. Its effects are daily and severely felt throughout Ireland. Severity of this exclusion.

Not only is the station of a Legislator of the first dignity and value, in a country where the Legislature is *omnipotent*, but it is even necessary to the safety and protection of every man in his life, liberty, and property, that he should enjoy, equally with his fellow-citizens, the right of sharing in the power of Legislation. To be debarred from this right, to receive laws from the will of others, who may have few common interests with him, and fewer sympathies, nay, whose interests and feelings may sometimes be directly hostile to his; to feel himself, in every Its dangers to life, liberty, and property.

CHAP. II. respect, at the mercy and disposal of other persons, is a condition of society, which a reflecting man must acknowledge to be very dissimilar to that of Freedom. He might, perhaps, prefer a system of avowed practical despotism.

Arch-deacon Paley has well observed, that

“ One tyrant cannot exercise oppression at so  
 “ many places at the same time, as it may be  
 “ carried on by the dominion of a *numerous*  
 “ privileged order over their respective depend-  
 “ ants.—*Of all species of domination this*  
 “ *is the worst* : the freedom and satisfaction of  
 “ private life are more constrained by it than  
 “ by the most vexatious law, or even by the  
 “ lawless will of an arbitrary monarch, from  
 “ whose knowledge and from whose injustice  
 “ the greater part of his subjects are removed  
 “ by their distance, or concealed by their ob-  
 “ scurity.”

Archdeacon Pa-  
 ley's description  
 of the worst  
 species of des-  
 potism.

Mor. and Polit.  
 Phils. vol. 2.  
 181.

Degrees of sla-  
 very compared.

The known principles of human conduct, and the uniform evidence of history, confirm and illustrate Dr. Paley's observation. Where a people happen to be subject to the will of one man, their fate will depend upon the accidental character of their master, It may be alleviated, or, perhaps, improved by his virtues, his talents, or his sense of his own interests. His vices or his follies may, indeed, prove mischievous ; but



they are easily checked : they die with him, at last, and never ripen into the awful magnitude of a permanent system. But, where the masters are many in number, each having a separate personal interest distinct from that of the public, sufficient to excite him towards his own aggrandizement, but not to restrain him by a due solicitude for the general welfare or national character—there, indeed, the fate and prospects of the enslaved class are gloomy and distressing in the extreme. They can expect but little protection or justice from their masters, of whatsoever denomination.

CHAP. II.

Miseries of servitude under many masters.

Before we enter upon the sad enumeration of hardships, which will be unfolded in the ensuing chapters, we are anxious, in order to obviate misconception, to premise one general declaration of our sentiments ; and, in this stage of our inquiry.

This Statement, extorted from our sufferings, may possibly be termed an invective against our Protestant fellow-subjects.

Far be such an intention from our thoughts. We solemnly disclaim it:—We know the benignity of nature, the generous and enlightened feelings, which belong to our estimable fellow-countrymen. We impute to them no innate hostility, no injustice, no oppression, no illiberal principles. But we complain of the

Disavowal of personal imputation against the Protestants.

## CHAP. II.

The intolerant  
Laws and sys-  
tem are alone  
complained of.

Anti-Catholic Code of Laws, which necessarily produce a hostile disposition. We complain only of the injustice and oppression which those intolerant laws continually create and prolong—Laws, which invest the ruling class in Ireland with a monopoly of power, not to be trusted with safety to any body of men whatsoever—Laws, which taint the early thought, vitiate the education, pervert the heart, mislead and darken the understanding. Such a Code, in our opinion, must necessarily corrupt the practice of those, whether Catholics or Protestants, whom it would profess to exalt; and must debase those, whom it would distinguish with excessive privileges and power.

## SECTION I.

This exclusion  
originated in  
1692.

UNTIL the year 1692, the Catholics were admissible by Law into both the Houses of Legislature, in Ireland. Their exclusion was effected by an English Statute of this year.

3 Will. and  
Mary, ch. 2.  
*Engl.*

The English Parliament, exercising in those days the jurisdiction of binding the people of Ireland by Laws expressly naming Ireland, passed an Act declaring that the provisions of a former English Act, (namely the 30 Cha. 2. stat. 2. ch. 1.) should extend to Ireland.

It was thereby enacted, “ That no person,  
“ who shall be a Peer of the realm, or member  
“ of the House of Peers, shall vote or make his

“ proxy in the House of Peers of Ireland, or  
 “ sit there during any debate in the said House  
 “ of Peers: And that no person, who shall be  
 “ a member of the House of Commons of Ire-  
 “ land, shall vote in the House of Commons, or  
 “ sit there during any debate after the speaker is  
 “ chosen.

CHAP. II.

English Statute  
of 1692.

“ Unless he shall first take the Oaths of Alle-  
 “ giance *and Supremacy*; and make and sub-  
 “ scribe the Declaration in the said Act menti-  
 “ oned, against Transubstantiation, the sacrifice  
 “ of the Mass, Idolatry of the Church of Rome,  
 “ invocation of the Virgin Mary or of the  
 “ Saints, &c.

“ If any Peer or Commoner offend against this  
 “ Act, he becomes subject to a Penalty of £500,  
 “ recoverable by any common Informer, and to  
 “ all the punishments of a Popish recusant  
 “ convict:

“ To a disability of holding any office or  
 “ place of trust under the Crown, civil or mili-  
 “ tary: of suing or defending himself in any  
 “ Action or suit at Law or in Equity: of being  
 “ Executor or Guardian, or taking any Legacy  
 “ or Deed of Gift, &c. &c.”

Whether this assumed power of binding Ire-  
 land by an English Statute ought to have been  
 submitted to, or not, we need not stop here to in-  
 quire—It suffices to know, that it *was* submitted

Adopted by the  
Irish Parliament

## CHAP. II.

9 Will. 3 ch.  
3. Sect. 2.

to: and that a Catholic peer or commoner was not likely to question it with success, or perhaps with safety. That the Irish Parliament acquiesced in this Statute, is pretty evident from a Statute passed by them in 1697, whereby "a Protestant marrying a Catholic was disabled from sitting or voting in either House of Parliament." This Statute would have placed the Protestant, so married to a Catholic, in a worse situation than that of a Catholic peer or commoner, if the latter had not been deemed already excluded by the English statute of 1692.

The authority of this statute then being uniformly recognized, the doors of Parliament have ever since remained closed against the Catholics. Moreover, care has been taken to remove all doubt in this respect.

This exclusion again confirmed, in 1782, by the Irish Parliament.

In 1782, upon the solemn renunciation of this assumed power on the part of the English Parliament, and the restoration of legislative independence to Ireland, the friends of the Protestant Ascendancy became alarmed, lest, in the national enthusiasm for freedom, the chains of the suffering Catholic might be loosened. It was apprehended that the Irish Parliament might, by a retrospective operation, defeat the policy of the English statute of 1692, amongst



many others, and that the Catholic might thus chance to re-enter the sanctuary of the Legislature. As a barrier against Catholic hope, it was therefore enacted, "That all clauses in English Statutes, relating to the taking of oaths or making or subscribing any declaration or affirmation in Ireland, or to penalties or disabilities in cases of omission, shall be in force in Ireland, *according to their present tenor.*"

CHAP. II.

History of this exclusion.

21 & 22 Geo. 3.  
c. 48. Sect. 3.

The Irish Parliament having thus, in the express terms of this statute of 1782, confirmed this exclusion of Catholics, thought proper to renew their vigilance in 1793.

The Statute of 1793, professing to be an act for the further relief of the Catholics of Ireland, has expressly reserved and re-enacted a great number of the most grievous privations, disabilities, and incapacities, which, however obsolete, heretofore existed in the Statute Book. This dormant prohibition against the admission of Catholics into either House of Parliament was found amongst others, and was renewed. The Statute runs thus :

This exclusion  
re-enacted in  
1793 by the  
Irish Parliament

"Provided always, that nothing herein contained shall extend, or be construed to extend, to enable any person to sit or vote in either House of Parliament [or to hold any of the

33 Geo. 3.  
ch. 21. Sect. 9.

## CHAP. II.

History of this  
exclusion.

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situations here enumerated, and comprizing almost every thing desirable in the state] “ unless he shall first have *taken, made, and* “ *subscribed the oaths and declaration, and* “ performed the several requisites, which by “ any law heretofore made and now of force “ are required, to enable any person to sit or “ vote as aforesaid.”

Such is the system of regulations, which, (thro’ the medium of Test oaths and declarations of a purely religious nature) denies to the Catholic all share in the right of Legislation.

No Catholic can  
take the oaths,  
or subscribe the  
declaration re-  
quired.

Need we argue, that no Catholic can conscientiously take the oaths, or subscribe the Declaration, required by the English Parliament of the 17th century? We hope not. To declare (and to invoke the Almighty to attest the declaration) that the King is the “ *Caput Ecclesiæ* :” that no foreign power hath, or ought to have, any pre-eminence, ecclesiastical or spiritual: or, in other words, that the consecrations of Catholic Bishops are, and ought to be, invalid, even though they claim only the precedence due to Orders, not to jurisdiction: that the sacrifice of the Mass, the doctrine of Transubstantiation, and the religious usages of his family and friends, are *idolatrous and superstitious*: to declare all this, contrary to his

sacred belief, or even with a doubting conscience, would be, not merely a base and shameless act of sacrilegious hypocrisy, unworthy of any man, who pretends to common feeling, shame, or integrity, but a public and unpardonable mockery of the All-seeing Deity, practised under the cheating semblance of Religious conformity.

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SECTION II.

HAVING stated this article of Exclusion, Extent and operation of this exclusion, according to the *letter* of the Law, we shall next advert to its *extent* and *operation* in Ireland.

1. As to the House of Peers.

2. As to the House of Commons.

1. The Honors of the Peerage, the profitable House of Peers, rank and effective power attached to it, the personal benefits derived from that rank and power, its powers and privileges. not only to the individual Peer, but also to the wide circle of his family and connections, are objects deservedly high in the estimation of all, who are gifted with superior minds, or capable of noble exertions. They are valuable in the eyes of any person, who looks around him, and observes, even cursorily, the present state of society.

Let us take a short view of the extent to which these honors and privileges are now enjoyed.

The Lords Temporal, who sit and vote in the

## CHAP. II.

House of Peers.

Nearly 500  
peerages, be-  
stowed within  
fifty years.

Parliament of the United Kingdom, exceed 340 in number. Taking a view of the creations to Peerages, which have occurred only within his present Majesty's reign, comprizing about fifty years, we find about 250 in England, and nearly an equal number in Ireland, forming a total, not far short of 500 Peerages. Of these, however, several are extinct.

The Books of Peerage will satisfy any reader, how very large a proportion of these five hundred Personages have raised themselves from the rank of Commoners, perhaps from a mere equality with their Catholic neighbours, even within these last thirty years. Some few may have been indebted to accidental causes for their elevation: many to the display of eminent virtues, talents, or other splendid qualifications: all, however, may have had cause to feel, that the Laws afforded exclusive encouragement to *their* services and claims, and ready rewards for their comparative merits. Nor do we presume to insinuate any diminution of those merits, when we offer the observation, naturally growing out of this subject—that these 500 personages have been thus selected and distinguished, not from amongst the people of these realms at large, but from amongst the members of a favoured religious community, who, in Ireland, do not amount to one Tenth part of the population.



If, therefore, these honors be great, the competition for them must be recollected to have been necessarily very limited, and especially in Ireland.

CHAP. II.

House of Peers.

Now it will scarcely be denied, that some portion of talent, virtue, or other claims to honorary distinction must naturally have been dispensed by Providence to the Catholics of Ireland, during the period we have taken. So large a number of Christians as Four Millions, dwelling in the immediate vicinity of enlightened nations, cannot in the ordinary course of affairs have been so utterly abandoned by nature, so long uncultivated and sunk in stupid torpor, as to have remained altogether destitute of individuals, whose merits might have laid claim to a participation of those rewards. Perhaps many brave Captains, many upright statesmen, many useful legislators, might have arisen amongst the Catholics of Ireland, if the Laws had not frowned upon their early hopes, and paralyzed their exertions. Who will affirm, that there might not have appeared amongst them a Rodney or a Nelson, a Hutchinson, a Moira, or a Moore, to swell the triumphs, and spread the renown of his Country, if the grand incentives, public Reward, Respect, and Rank, had been permitted to dawn upon his youthful prospects? How many, at this moment, bereft of hope and of emulation,

Natural claim of  
Irish Catholics  
to a share in  
these honors  
and rewards.

Their talents  
and virtues dis-  
couraged.

CHAP. II. are the withering votaries of inglorious indolence! How many desponding Catholics  
 House of Peers. now stagnate in obscurity, or pine in wasting chagrin, who could reflect ample honor upon their country, if they might hope for honor in return! But, without chance of reward, without an object worthy of exertion, they now languish unnoticed and useless.

———Virtutem quis amplectitur ipsam,  
*Præmia si tollas?*———

The exclusion of the Catholics from the honors and benefits of the Peerage operates, therefore, like their exclusion from all other rewards, equally to the detriment of the public, and to the depression of the individual.

Vulgar error  
 refuted, that  
 only ten Catho-  
 lic Peers are  
 aggrieved.

For it is really but a puerile and confined view of this interesting subject, to argue, as some have recently argued, that “there are not more than about ten Catholic individuals actually aggrieved by this exclusion.” The number of Catholic Peers, say they, does not exceed 7 in England, 8 in Ireland, and 2 in Scotland: not more than two or three of the Irish and Scotch would probably be elected as representative peers: the united number therefore, would not exceed *ten*, and these are the only persons entitled to complain.

Now, this argument is fallacious. According

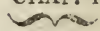
to the *letter* of the Constitution, every situation of honor, trust and power, ought to be accessible to every citizen. In daily practice the Protestants enjoy the full benefit of this principle. It is withheld from the Catholics. It appears, that all access to the honors and powers of the Peerage is closed against every Catholic. He remains without even the hope of ever attaining any participation in them. This exclusion operates as a bar against every Catholic, who might, otherwise, reasonably expect to count the ennobling of his name amongst the possible events of his future life, and whose actions might accordingly be influenced by this incentive. No such bar stands in the way of the Protestant. Therefore, this exclusion, by the partiality of its principle and the general mischief of its spirit, inflicts injury, not merely upon a few Catholic Peers, but upon the Catholic community at large.

That the ancient Catholic Peers are peculiarly aggrieved by this exclusion, will readily be admitted. Survivors of the stormy persecutions of centuries, they present at this day a disheartening spectacle of shattered greatness. Blameless in private life, circumspect in the narrow sphere of their public conduct, they are, nevertheless, treated with ignominious distrust,

CHAP. II.

House of Peers.

The ancient Catholic peers  
peculiarly unfortunate.

CHAP. II.  
  
 House of Peers.

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A Catholic Peer is, indeed, in a singularly distressing predicament. He is subject to all the responsibility and charges of ostensible rank, yet bereft of its incident patronage and power ; nay, debarred, by honor and etiquette, from many pursuits, many means of providing for his children, which are free to a commoner ; from all enterprizes of trade, from all gainful occupations of a merely pecuniary nature. The professions of arms, diplomacy, and literature, afford the sole legitimate pursuits, in which a nobleman is permitted to seek for wealth or advancement. From these pursuits the Catholic Peer is deterred by the letter of the Laws, or by their necessary operation. Still more galling to a well-constituted mind, must be the state of systematic insult and contempt, to which the Catholic Peer is exposed. His conspicuous rank points him out to continual notice, and as a *mark* for hostility ; whilst his powerless and unprotected condition invites repeated aggression, and prostrates him before the slights and spurns of official insolence. Poverty, obscurity, personal privations—these might be tolerable, but, alas ! to be made

A fixed figure for the hand of scorn  
 To point his slow unmoving finger at—  
 Oh ! *this is too much !*

A late Catholic Peer ( Lord Petre ) universally



revered for his valuable endowments of head and heart, has feelingly complained of this exclusion, as amounting to little short of a *personal* imputation. In pathetic language he thus vents his indignation :

CHAP. II.

House of Peers.

“ Is it not *an insult* to me, to be debarred  
 “ from exercising my hereditary right of  
 “ legislating in the Peers’ House of Parliament,  
 “ merely because I will not take oaths,  
 “ and subscribe declarations, of which my  
 “ conscience disapproves—and to be cruelly  
 “ told, in the same breath, that any oath I may  
 “ take cannot be depended upon? *Is it not*  
 “ *disgraceful to any man of honor to stand as*  
 “ *an object of suspicion, and the victim of, at*  
 “ *least, an implied stigma, in his native land,*  
 “ for no other reason, but because he prays to  
 “ God in his own way, and professes the Religion  
 “ of, not only his forefathers, but the fore-  
 “ fathers also of those very persons, who impose  
 “ restraints upon him, and are, at the same  
 “ time, ready to express the highest veneration  
 “ for their ancestors in other respects?”

Reflections, &c.  
 by the late Lord  
 Petre—Booker,  
 1804.

Upon the insult  
 and disgrace of  
 this exclusion.

We shall conclude our view of the disabilities, which peculiarly affect the Catholic Peers, by observing that, as the law now stands in Ireland, the Catholic Peer is precisely the only man in the community, who is *wholly disqualified, not*

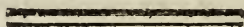
Catholic Peer  
 doubly disquali-  
 fied as Legisla-  
 tor and as  
 Elector.

CHAP. II. *only from sitting or voting in either House of*  
 House of Peers. *Legislature, but also from voting at the*  
*election of a member for either.*

40 Geo. 3.

ch. 29. Sect. 4.

By the express words of the Act of Union, he is disabled from voting at any election of a representative Peer to serve in the Parliament of the United Kingdom ; and, by the standing order of the House of Commons against the interference of Peers, he is forbidden to interfere or vote at the election of any member of the Lower House of Legislature.



### SECTION III.

*“ As to the House of Commons.”*

House of Com-  
mons.

THIS exclusion is still more important in its extent and operation. It comprizes a greater number of situations of trust and power, amounting at present to 658. These 658 members and their connections are in continual contact with the people of all descriptions ; they transact a great quantity of public business, controul the public purse, correct public abuses, criminate public delinquents. They have frequent opportunities of manifesting personal fa-

The extensive  
operation of this  
exclusion.

your or ill-will : of benefiting or enriching  
 their private friends : of injuring or despoiling  
 the obnoxious or defenceless. Moreover, the  
 frequent changes of its numerous members, the  
 variety and fluctuation of its proceedings, render  
 this House far more instrumental, than the upper  
 House can be, in widely diffusing the effective  
 influence of Legislative power.

CHAP. II.

House of Commons.

Their great numbers, and wide influence.

Let us keep in mind, that it is not so much to the purpose to inquire, what may be the precise number of Catholics *actually excluded* from the Legislature, as to consider how many are excluded from all chance of *participation* in it ; and what must be the general effect of such exclusion upon the interests and feelings of the Catholic body.

The number of Catholics qualified for seats in the Legislature, (if learning, talent, landed estates, or commercial wealth be admitted as a qualification) probably exceeds Thirty thousand persons. These men stand personally proscribed by the existing exclusion, whilst their Protestant neighbours find every facility for ready admission.

The qualified Catholics, excluded from any chance of participation, exceed 30,000.

Now, the advantages flowing from a seat in the Legislature, it is well known, are not confined to the *individual representative*. They extend to all his family, friends, and connections ;

Personal advantages of a seat in the Legislature.

## CHAP. II.

House of Com-  
mons.

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Contrast be-  
tween the pri-  
vileged Protes-  
tant and the  
proscribed Ca-  
tholic.

or, in other words, to every Protestant in Ireland. Within his reach are all honors, offices, emoluments : every sort of gratification to avarice or vanity : the means of spreading a great personal interest by innumerable petty services to individuals. “ He can do an in-  
“ finite number of acts of kindness and gene-  
“ rosity, and even of public spirit. He can  
“ procure advantages in trade, indemnity from  
“ public burdens, preferences in local compe-  
“ titions, pardons for offences. He can obtain  
“ a thousand favours, and avert a thousand evils.  
“ He may, whilst he betrays every valuable  
“ public interest, be, at the same time, a bene-  
“ factor, a patron, a father, a guardian angel  
“ to his political adherents.” On the other hand,  
how stands the Catholic gentleman or trader ?  
For his own person, no office, no power, no  
emolument : for his children, brothers, kin-  
dred, or friends, no promotion, ecclesiastical  
or civil, military or naval. Except from his  
private fortune, he has no means of advancing  
a child, of making a single friend, or of  
shewing any one good quality. He has nothing  
to offer but harsh refusal, pitiful excuse, or  
despondent representation.

Further, we may observe the powerful effect  
of *Opinion* upon this subject. The personal



importance, the conscious independence, the sense of security and protection which belong to the Legislative character, are participated with hundreds of persons without doors, whom the Representative may be desirous to court, or whose interests or sympathies may accord with his own. In Ireland, these persons are, almost universally, of the Protestant profession; connected with the Member by the ties of family or of friendship, of early acquaintance, education, or reciprocal services. Besides, they already enjoy exclusive power and privileges, and therefore can command the respect, and pre-occupy the exertions of the Member. Perhaps, they are not without the prospect of seats for themselves. Hence, every Protestant feels himself, and really is, more firm and secure in the favour of the Laws, more powerful in society, more free in his energies, more elevated in life, than his Catholic neighbour of equal merit, property, talents, and education. He alone feels and possesses the right and the legal capacity to be a Legislator, and *this consciousness is actual power.*

CHAP. II.

House of Commons.

Derivative benefit to the entire Protestant community.

## SECTION IV.

UNDER this exclusion, then, from both Houses of Legislature, Property, talents, virtues, public Depression of every Catholic.

## CHAP. II.



See Montesqu.  
Esprit de Loix.  
Lib. 15. ch. 12.

services—all are equally ineffectual for the advancement, or even security, of the Catholic in Ireland. Whilst his fellow-citizens are enjoying their full measure of freedom, and basking in the sunshine of the Constitution, he is repulsed with scorn, and cast into darkness. Shut out from influence over any member of Parliament, from connection or political sympathy with him, he is shut out from every thing, in an empire like this, where every thing depends upon Parliamentary influence and consequent patronage.

Mischiefs of this  
exclusion to the  
Catholics.

He finds no access to any of those offices or employments, which the Statute of 1793 has (seemingly, and in tantalizing terms) laid open to him. They are all pre-occupied by patronage.

In property.

His property may be taxed, iniquitously so, without his assent or knowledge.

Liberty.

His personal liberty may be circumscribed by Laws enacted, either designedly to affect him, or in total ignorance or disregard of their operation.

Reputation.

His reputation may be assailed and traduced with impunity, without the means of vindication.

New Laws annually to their  
prejudice.

Even the exclusions, incapacities, and disabilities already existing against him, are annually

multiplied by the Legislature, directly or indirectly, through various Statutes.

CHAP. II.

Thus the Irish Catholic, far from possessing the consciousness of Freedom, feels himself to be an insulated and stigmatized being, without patron or powerful friend, or the means of acquiring one : destitute of credit or weight, and degraded below the level of persons, who, in many instances, are morally and physically his inferiors, though politically his masters. Even his merits or talents are dangerous to him, if developed. They excite alarm and suspicion. Power is distrustful, and ignorance illiberal. The innocent and deserving Catholic becomes the victim of both, *in the day of persecution.*

General stigma  
and insecurity  
inflicted by this  
exclusion.



ON the other hand, were Catholics eligible to seats in the Legislature, were there only ten Catholics in the Upper House, and twenty in the lower House (which is a probable estimate for the first ten years) how many mischiefs and errors might be avoided, how many useful projects formed and undertaken ! No Protestant member, however upright and enlightened, can be expected by the Catholics to be constantly prepared to protect their property from unequal impost in Par-

Public advantages of rendering  
Catholics eligible  
to the Legislature.

## CHAP. II.

Advantages of  
restoring *eligi-*  
*bility* to the Ca-  
tholics.

liament, their rights from aggresssion, their fame from calumny, or their Religion from gross misrepresentation. Catholic Members, and they alone, would prove competent to those tasks. A Member of this description, duly qualified, speaking upon the affairs, complaints, and interests of his own community, could readily falsify the fabricated tale, refute the sophistical objection, unravel the apparent difficulty, state the true extent of what is desired, and what is practicable. Such a Catholic, actually knowing the condition of his fellow-sufferers, could put down a calumny in the instant of its utterance; and this, not merely by contradicting it, but by referring with promptitude to existing documents, facts, and authorities, by quoting time, place, and circumstance, and bringing within the immediate view of the House and the public the necessary materials of refutation.

Errors would be  
avoided.

Calumnies ex-  
posed.

Illiberal Laws  
would be  
checked.

If an illiberal or unjust Law should be insidiously or ignorantly proposed, he could arrest its progress. He could check every attempt to impose new restraints upon toleration, and detect intolerance under its most wily disguises, whether of education or charity, military aid, or Religious zeal. If, under any of those specious pretexts, measures should be brought forward, really calculated to foster false pre-



judices, to prolong intestine divisions, or to abet a barbarous and obsolete policy, he could expose the lurking mischief; he could, from local knowledge, unfold the inconvenience, inadequacy, or injustice of such measures; explain their probable operation, and perhaps point out the means of attaining their professed objects, by means more mild and legitimate. We should, probably, no longer hear of men starting up in Parliament, gravely vouching for facts, which either have never occurred or have been egregiously misconceived, and availing themselves of the accident of being Irishmen, or having seen Ireland, to give currency to the grossest delusions upon their English audience.

CHAP. II.

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Services to be rendered by Catholic Members.

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Useful Laws promoted.

Such men would not attempt those practices in the presence of a competent Catholic member, or, if once attempted, would find little encouragement to repeat them. They would abandon the occupation of misrepresenting the Catholics, as unprofitable and unavailing. And this would be, in itself, no small advantage gained by the Catholics and by the empire.

Still further, the very habits of Catholic Members, and their intimate acquaintance with the wishes and condition of their fellow-Catholics, would naturally assist the Legislature in acquiring a better knowledge of the people of

The Irish People would become better known to Parliament.

## CHAP. II.

A salutary Reform would be effected in Parliament, without innovation.

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Ireland ; in learning their real means and wants, their local and general interests. Public measures upon an enlarged and comprehensive scale might, then, be more safely proceeded upon, and more directly facilitated. The Legislature would embrace an enlarged representation, for the benefit of Millions now unrepresented. An improvement of the highest value, and of the most popular nature, would take place in the Constitution of Parliament, without innovation or disturbance of established systems, or any greater effort than merely that of restoring Four Millions of Catholic citizens to their ancient place in their country.

Thus, by a single act of justice, moderate and constitutional, a salutary reform in Parliament might, to a certain degree, be attained : and *thus these realms might become in reality, as they now are in name only, an United Kingdom.*

Finally, the enlightened Statesman may truly observe of this exclusion of the Catholics from both Houses of Legislature, “ Continue this

*Paramount importance of restoring Eligibility of Catholics to serve in Parliament.*

“ Exclusion, and the removal of all the other  
 “ grievances will be of little value, and of no  
 “ permanent security to the Catholics, or to  
 “ the Empire. *Remove this Exclusion, and*  
 “ *the other grievances cannot long survive.*”

## SECTION V.

## CHAP. II.

*“ Of the Elective Franchise, as enjoyed by  
“ the Catholics.”*

THE Elective Franchise, or right of voting at the election of Members of Parliament, is supposed to have been wholly restored to the Catholics by the statute of 1793. Let us inquire what is the fact.

In 1727, the Catholics of Ireland were deprived of this right, by Act of Parliament. It was enacted, “ That no Catholic shall be entitled or admitted to vote at the Election of any member to serve in Parliament as a knight, citizen, or burgess ; or at the Election of any magistrate for any city, or other town corporate ; any law, statute, or usage to the contrary notwithstanding.”

Elective Franchise, how enjoyed at this day.

Catholics disfranchised in 1727.

1 Geo. 2. ch. 9; Sect. 7<sup>o</sup>

Thus, the Catholics were stripped of the Elective Franchise, and thus they remained during sixty-six years.

Partially reinstated in 1793.

In 1793 it was enacted, in substance, “ That every Catholic should be qualified to vote at such Elections, upon his producing to the returning officer a certificate of his having taken and subscribed certain oaths and declarations required by that act.”

33 Geo. 3. c. 21. Sect. 7, 14, 15.

But, by a subsequent Statute of 1797, commonly termed the Election Act, it was declared,

CHAP. II. that Catholics, who qualify *previous to the teste*  
*of the writ of Election*, shall be deemed to have

37 Geo. 3. c. 47.  
 Sect. 19. qualified within the meaning of those Statutes of 1793 and 1797, in order to entitle them to vote at such Elections. Upon these two

A question upon Catholic franchise, touching the time for qualifying.  
 Statutes a question has arisen, which imposes new difficulties upon the Catholic franchise.

Under the Statute of 1793 a Catholic might have qualified *at any time* previous to tendering his vote. By the Statute of 1797 it appears to be understood, that he should qualify *previous to the teste of the writ of Election*, which may be thirty days previous to the election. Opposite decisions upon this question have been made by returning Officers, and very many Catholics have been consequently disfranchised. This question ought to be settled. In point of good sense it appears plain, that these qualifications ought to be reserved, like the bribery oath, &c. for the moment of contest, and to be tendered only upon the Hustings.

Mischief of this difficulty.

Besides this general impediment in the way of the Elective franchise, the Catholics are liable to peculiar restraints in cities and towns corporate. Such Catholics as are entitled to their Freedom of the Corporation, by birth or service, are rarely admitted to it. They are scarcely ever made free by grant; and thus they are denied equal means of acquiring the Elective



franchise with those which the Protestants enjoy. CHAP. II.  
 This subject shall be discussed more at large in Elective fran-  
 the next article, touching Towns corporate. chise in Corpo- It rations, how  
 is certain, however, that, from the doubtful con- impeded.  
 struction of the Statutes of 1793 and 1797, and  
 the restricted participation of the freedom  
 of Corporations, the Catholics suffer much in-  
 convenience and comparative disadvantage in the  
 enjoyment of the Elective Franchise in Ireland.

In Cities and corporate towns, the Elective franchise, as appertaining to freemen, is, by the practices we have noticed, almost solely confined to Protestants, who are in the ratio of at least *fifty to one* of the Catholic Freemen, owing to the watchful jealousy with which the freedom is withheld from Catholics. This monopoly, therefore, occasions a decided, though unnatural, preponderance of Protestant voters at Elections of Members for such places; contrary to the professed principle of granting equal qualification for voting to persons of all Religions.

Moreover, in *all* Elections of Members, whether for Counties, cities, or towns, every Catholic freeholder is liable to rejection, for some alleged error in his certificate of Catholic qualification, whether as to the date or wording of the certificate, place or time of qualification, or other ground of technical objection to the peculiar form of his qualification.

## CHAP. III.



## CHAP. III.

*“ Of the Laws, which exclude the Catholics  
 “ from Municipal Offices in Cities and  
 “ Towns Corporate ; and herein of the  
 “ Corporate Franchise, as enjoyed by the  
 “ Catholics.”*

Public mischief  
 of all Corporate  
 immunities ;  
 now generally  
 admitted.

Wealth of na-  
 tions, vol. I.  
 p. 91, 93, 201,  
 284, &c.

THE general inconvenience and public mischief resulting from the existence of Corporate immunities, are now pretty generally understood and acknowledged. Corporations, possessing exclusive privileges, are prejudicial to society at large, without distinction of religion. They are reprobated by the most eminent men. Doctor Adam Smith pronounces, amongst their many other evils, that “ They are a sort of enlarged  
 “ monopolies ; they keep up the price of labour,  
 “ and of particular commodities, above their  
 “ natural rate. They necessarily restrain com-  
 “ petition in the particular town to those who  
 “ are free of the trade ; thus depressing excel-  
 “ lence, and favouring unskilfulness. They  
 “ promote and encourage combinations against

“ the public.” Archdeacon Paley more boldly  
 declares, that “ Nothing so alienates the minds  
 “ of the people from the Government under  
 “ which they live, *as a perpetual sense of an-*  
 “ *noyance and inexpediency ; or so prepares*  
 “ them for the enterprizes of an ambitious Prince  
 “ or a factious demagogue, *as the abuse which*  
 “ *almost always accompanies the existence of*  
 “ *separate immunities.*”

CHAP. III.

Mor. and Pol.  
 Philos. vol. 2.  
 p. 182.

Our purpose is to detail only the additional  
 means of annoyance, which the municipal cor-  
 porations of Ireland possess, as superadding the  
 principle of religious hostility to the general  
 spirit of intolerance and jealousy inherent in the  
 constitution of all corporate bodies.

Corporations  
 peculiarly vexa-  
 tious in Ireland.

This exclusion of Catholics from all cor-  
 porate offices was effected during the reign of  
 Charles II. and in the year 1667. Certain  
 Rules, orders, and directions were, in that year,  
 promulgated and established by the then Lord  
 Lieutenant of Ireland, (the Earl of Essex) and  
 his privy council, purporting to regulate the  
 Corporations of Ireland and the election of  
 Corporate officers. Having been adopted and  
 confirmed by an express Act of Parliament, they  
 derive of course the authority of established Law.  
 These Rules, &c. are to be found amongst the

Catholics ex-  
 cluded in 1667.

17 and 18 Ch. 2.  
 ch. 2. 82. en-  
 titled, An Act  
 for the explana-  
 tion of the act  
 of Settlement,  
 &c.

## CHAP. III.

All Corporate  
offices, &c. inter-  
dicted to the Ca-  
tholics.

printed Irish Statutes, and are detailed in distinct chapters.

But, in substance, they direct, “ That no  
“ person shall be mayor, sovereign, portreef,  
“ burgomaster, bailiff, alderman, recorder,  
“ treasurer, sheriff, town-clerk, common coun-  
“ cil-man, master or warden of any guild, cor-  
“ poration, or fraternity, *or hold any such or*  
“ *the like offices* in any city, walled town, or  
“ corporation in Ireland :

“ Unless he shall have taken the Oath of  
“ supremacy, established by Act of Parliament,  
“ [2. Elizabeth] and certain other oaths, spe-  
“ cified by those rules—(*such persons only ex-*  
“ *cepted*, with whose taking the said oath of  
“ supremacy the Lord Lieutenant, or other  
“ chief governor of Ireland, for the time being,  
“ shall think fit, by writing under his hand and  
“ seal, to dispense.”)

Lord Lieute-  
nant's dispens-  
ing power, nu-  
gatory.

Such are the Statutable regulations, ordaining  
the universal proscription of the Catholic body  
from all Corporate offices whatsoever. The  
dispensing power, vested in the Lord Lieutenant,  
has not mitigated this proscription. It does  
not, upon inquiry, appear to have been ever  
exercised in any one instance ; and, in fact and  
practice, it has made no difference in favour of  
the Catholics. Indeed, it is doubtful whether



the Lord Lieutenant now possesses it. For (by a Statute enacted in 1704) the Oath prescribed by those Rules, &c. has been replaced by a new oath of supremacy, and also by a declaration *against Transubstantiation, the sacrifice of the Mass, and invocation of saints*, which are by this Statute required to be taken and subscribed by those persons to whom the former oath (2 Eliz.) was prescribed, and upon the like occasion, and in the like manner.

CHAP. III.

2 Anne, ch. 14.  
Sect. 2. which  
is the Irish Test  
Act.

Now, this latter Statute of 1704 has not authorized the Lord Lieutenant to dispense with the subscription to the Declaration, or even renewed or continued the former dispensing power touching the oath. This difficulty appears to have gained strength from a recent Law.

For the Irish Statute of 1782 (already referred to) has introduced into Ireland, and adopted, by one sweeping enactment, all clauses in all the English Statutes relative to taking oaths and subscribing declarations, &c. It has thus inflicted the English test and corporation Acts upon Ireland; and, as these are well known to be rigorous and effectual in England, they may be presumed to be enforced with sufficient zeal in Ireland.

21 & 22 Geo. 3  
ch. 48. Sect. 3.

Ante p: 65.

In 1782, the  
English Test  
and Corporation  
Acts confirmed  
in Ireland.

This exclusion of the Catholics from Corporate Offices has been carefully confirmed and re-

## CHAP. III.

33 Geo. 3.  
ch. 21. Sect. 9.

In 1793, the  
Exclusion of Ca-  
tholics from all  
Corporate offices  
was re-enacted.

enacted by the Irish Statute of 1793, which declares, by proviso, " That nothing therein contained shall enable any person to hold, exercise, or enjoy any Office contrary to the rules, orders, and directions, made and established by the Lord Lieutenant and council, in pursuance of the Act passed in the 17th and 18th years of the reign of King Charles II. entitled, an Act for the explaining of some doubts arising upon an Act, entitled, an Act for the better execution of his Majesty's gracious Declaration for the settlement of the kingdom of Ireland : Unless he shall have taken the oaths, and performed the several requisites, which by any Law heretofore made, and now of force, are required to enable any person to hold, exercise, and enjoy the said offices respectively."

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Enumeration of  
offices interdict-  
ed.

IT is difficult to enumerate all the municipal situations in the various cities and towns of Ireland, thus closed against Catholic industry and merit. In the city of Dublin alone we find the Offices following, viz.

|                                      |   |    |
|--------------------------------------|---|----|
| Lord Mayor and Aldermen              | - | 24 |
| Sheriffs 2, Sheriff's Peers 38       | - | 40 |
| Recorder and Treasurer               | - | 2  |
| Common Council-men                   | - | 96 |
| Masters and wardens of Guilds, about |   | 84 |
| Town Clerks                          | - | 2  |

CHAP. III.

Offices in Dub-  
lin interdicted,  
248.

---

Offices 248

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Passing thence to the other Cities and corporate towns of Ireland, which may be reckoned at 115 in number, (as Cork, Limerick, Waterford, Belfast, Kilkenny, Drogheda, Galway, Sligo, Derry, Cashell, Clonmell, Trim, Enniskillen, Wexford, &c. &c.) we may reasonably take the average number of Corporate offices in each at about 20; which probably falls far short of the real number, since the City of Dublin alone appears to produce nearly 250. This average number of 20 offices to each of these 115 other Corporations gives the number of 3,300; and, added to the number of 248 appearing in Dublin, will amount to a total of 3,548 Corporate offices in Ireland, comprized within this positive pro-  
scription.

In the remain-  
ing Cities and  
Towns, Cork,  
Limerick, Bel-  
fast, &c. &c.  
3300.

Total, 3548, by  
express words.

Spirit and ope-  
ration of this ex-  
clusion.

Thus far do the words and letter of the Law extend; but its spirit and necessary operation

CHAP. III. reach farther. They render inaccessible to Ca-

All Offices, de-  
pendant, &c. are  
interdicted.

tholics the numerous lucrative situations de-  
pendant upon, and connected with, those Corpo-  
rate offices ; the patronage, power, preference,  
and profits at their disposal. In the city of  
Dublin alone, the number of these dependant  
situations exceeds 200, including the entire  
Police establishment and its officers, Paving  
and Lighting and Pipe-water Boards, Com-  
missioners of Wide Streets, Court of Conscience,  
Grand jury, City surveyors, craners, collectors,  
clerks, secretaries, solicitors, agents, and the  
various petty offices of more or less emolument,  
derived from those Boards.

In Dublin, 200  
dependant of-  
fices,

In the remain-  
ing Cities and  
Towns, 1000  
dependant of-  
fices.

We may fairly estimate the number of 1,000,  
as not exceeding the amount of similar minor  
offices in the gift or at the disposal of the several  
Corporate officers in the remaining cities and  
towns of Ireland. This number, added to the  
number of 200 to be found in the city of Dublin,  
will form a total of 1,200 offices in Ireland,  
from which the Catholics are excluded by the  
spirit and *consequential* hostility of those Laws  
which exclude them from Corporate offices.

Total, 1200 de-  
pendant offices  
in Ireland.

Hence it will appear, that the gross number  
of offices and situations, from which this class  
of Penal Laws excludes the Catholics, may be



considered as amounting—

*directly, and by express enactment, to*

about - - - 3548

*Consequentially, to about - 1200*

---

Total 4748

---

Total of offices,  
&c. interdicted,  
4748.

Here, then, is an immense number of officers, diffused throughout the different districts of Ireland, invested with powers of annoying others, and of protecting and enriching themselves, which are refused to their Catholic fellow-citizens.

The great and general dominion attached to these situations, in public and in private life, naturally divides the inhabitants of every city and town in Ireland into two very distinguishable casts, the Masters and the Vassals. The vexations, insults, and other mischiefs flowing from this Municipal system, almost baffle calculation, and can scarcely be even imagined, save by the actual sufferers. Let us, however, attempt a cursory outline of them-

Inhabitants divided; Masters and Vassals.

Hence, incalculable vexations.

All Catholic merchants, tradesmen, and artisans; all the immense variety of petty dealers and handicraftsmen, shop-keepers of every kind, smiths, carpenters, masons, shoe-makers, weavers &c. &c. are under a necessity (for subsistence sake) of residing in these cities and towns, and

To Catholic merchants, artisans, masons, weavers, &c.

CHAP. III. under the yoke of Corporate power. Perhaps

Catholic trades-  
men, artisans,  
&c. &c. &c.  
debased, de-  
pressed, and de-  
frauded.

these men and their families amount in number to some *hundred thousands* of the most useful, laborious, and valuable citizens of Ireland.

Such persons, in any well regulated State, would be deemed fit objects of favour and encouragement, at least of protection. But, in Ireland, their lot is a grievous one. They are debased by the galling ascendancy of privileged neighbours. They are depressed by partial imposts; by undue preferences, and accommodation bestowed upon their competitors; by a local inquisition; by an uncertain and unequal measure of justice; by fraud and favouritism daily and openly practised to their prejudice. The Ca-

Annoyance to  
Catholic Gen-  
tlemen.

tholic gentleman, whose misfortune it may be to reside in or near to any of these cities or towns in Ireland, is hourly exposed to all the slights and annoyances that a petty sectarian oligarchy

Professional  
men.

may think proper to inflict. The professional man risks continual inflictions of personal hu-

Farmers.

miliation. The Farmer brings the produce of his lands to market under heavier tolls. Every

Catholic indus-  
try and skill  
discouraged.

species of Catholic industry and mechanical skill is checked, taxed, and rendered precarious.

Protestant indo-  
lence cherished,  
wants supplied,  
&c. &c.

On the other hand, every species of Protestant indolence is cherished and maintained; every claim is allowed; every want supplied; every

extortion sanctioned; nay, the very name of  
 “ Protestant” secures a competence, and com-  
 mands Patrician pre-eminence in Ireland.

CHAP. III.

Patrician sway  
 of Protestants.

Hence, the peculiar misery of Irish Corporate towns; the general ignorance and unskilfulness of their tradesmen; their dear charges for labour; their irrational combinations; their abject poverty; their squalid exterior. These and numberless similar mischiefs are solely attributable to this perverted and unnatural system of Penal Laws, which confounds all ordinary principles of human action, and frustrates the most hopeful projects of benevolence and patriotism.

Hence the  
 misery of  
 Corporate  
 Towns in  
 Ireland, un-  
 skilful tradesmen  
 &c.

Yet the Public have been confidently and continually told (it has even been admitted, but inadvertently, by some of the advocates of Catholic freedom) *that the Catholics and Protestants have been placed upon a perfect equality by the Statute of 1793, save as to seats in Parliament, and about thirty or forty of the higher situations in the State, as Lord Chancellor, General, Privy Counsellor, &c. that, indeed, only a handful of ambitious individuals now remain to be gratified; but that, as for the Catholic poor, artisans, cottagers, peasants, &c. they, forsooth! are not touched*

Idle assertions,  
 underrating the  
 severity of  
 Catholic ser-  
 vitude.

And overrating  
 the concession  
 of 1793.

CHAP. III. *by these Penal Laws, and have nothing to gain by their repeal.*

Dangers of such delusion.

Ah ! what an egregious error ! What a wicked assertion of those who propagate it, if conscious of its falsehood ! What a fatal delusion, if the honest and the liberal, who may have been seduced by it, shall not awake to a serious and minute contemplation of the dreadful hostility, with which the Penal Laws at this moment rage against the feelings, the peace, the interests and the very existence of the Catholic community of Ireland, throughout all its various classes, but most emphatically and virulently against the Catholic poor, the humble and the industrious !

*The Catholic poor and industrious, are the most unprotected, and the most virulently warred against.*

To return to the Cities and corporate towns :—

Each Catholic Tradesman, &c. sinks in the struggle against the privileged Protestant : his power, influence &c.

Each Catholic merchant, tradesman, artisan, &c. is engaged in a continual, but ineffectual, struggle against, not only the general severity of the Anti-Catholic system in Ireland, but also the local hardships and vexations heaped upon his lot, in his particular town, under the sanction of Law. He sinks beneath the pressure of these accumulated burthens ; the manifold personal advantages enjoyed by his Protestant fellow-tradesman ; the power and influence of his rival, his opportunities of rendering services or of inflicting injuries ; his superior credit in



the town and elsewhere ; greater accommodation  
 for his trade and family ; exemption from tolls ;  
 preference in beneficial contracts and in the  
 markets. He may be teased and worried, without  
 intermission, by numberless sallies of magisterial  
 caprice, and by the workings of various petty  
 privileges, which are pushed to their utmost ex-  
 tent by the jealousy of the Corporation spirit, the  
 rivalry of low tradesmen, and the asperity of  
 religious prejudices.

CHAP. III.

Depression of  
 Catholic mer-  
 chants, trades-  
 men, &c.

Whatever may be his wealth, his talent, or  
 his services, he is uniformly refused a place upon  
 Grand Juries within those Corporate towns :  
 and even upon Petty juries, unless when the  
 duty is arduous, and unconnected with party  
 interests. He more than doubts of obtaining the  
 same measure of justice, of favour or respect,  
 from the mayor, recorder, alderman, tax-ga-  
 therer, public boards, &c. that is accorded to his  
 Protestant neighbour. He lives in continual  
 apprehension, lest he or his family may become  
 objects of some pecuniary extortion, or victims  
 of some malicious accusation. Hence he is  
 cringing, dependant, and almost a suppliant for  
 common justice.

Extortion, or  
 false accusation  
 impending.

## CHAP. III.

Comparison of  
the Catholic  
condition with  
that of the Jew.

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Thus the Catholic leads a life resembling that of the *condemned Jew*; of no account personally; but partially tolerated for the sake of outward shew; trampled upon individually: preserved collectively—for the uses of others; permitted to practise commerce and agriculture for the benefit of public Revenue: gleanings, by connivance, a little money from arduous enterprises and intense labours, which the happier lot of the privileged class enables them to decline: but never to be received cordially as a citizen of the town, which he enriches, and perhaps maintains.

Catholic petition  
of 1805.

In fine, it may be truly affirmed (as was complained in the first Catholic Petition, presented to Parliament in 1805 by Mr. Fox) “ That this  
“ Interdiction of the Catholics from all Corporate offices is severely felt by them as an  
“ Evil, not terminating in itself; for, by giving  
“ advantage over the Catholics to the exclusive  
“ possessors of those situations, *it establishes a*  
“ *species of qualified monopoly, operating*  
“ *universally in their disfavour; contrary to*  
“ the spirit, and highly detrimental to the freedom, of Trade.”

2dly. *With respect to the Corporate franchise, or freedom of cities and towns, as enjoyed by Catholics.*

Freedom of Corporations.

The Freemen, or commonalty of cities and corporate towns, constitute the ruling class in their respective districts. They form the broad foundation of each Municipal government. From this body are elected the Civic magistrates and corporate officers; and, to the freemen and their families are limited all the privileges, exemptions, and benefits, derived under the common charter of incorporation. Its value,

This freedom is, therefore, of considerable value to a citizen, and especially in three ways, viz.

1. In qualifying him to vote at Elections of In voting at Elections. Members to represent the corporation in Parliament; of the Mayor, Aldermen, Common council-men, and other magistrates; and thus vesting in the Freeman a controul over the choice and conduct of the candidates for those situations.

2. In exonerating the Freeman and his family In exoneration from Tolls. from the payment of various market tolls and local duties, to which a Non-freeman is subject.

3. In securing to him an indirect monopoly of In monopoly of Trades. the exercise of various trades and arts, by the exclusion of such persons as have not served legal apprenticeships.

## CHAP. III.

Freedom of  
Corporations.

Stat. 1. Geo. 2.  
ch. 9. Sect. 3.

Freedom not  
attainable by  
Catholics.

For what  
reasons.

Stat. 14 and 15  
Cha. . 2. 13.  
Sec. 6. 7 Wil. 3.  
ch. 5. Sect. 8.  
8 Anne ch. 3.  
Sect. 37.

Now the number of Catholic freemen in Ireland is very inconsiderable ; and, for various reasons, must continue so.

When the Catholics, in 1727, were deprived of their right of voting at Elections of Members of Parliament for cities and towns corporate, and also at the elections of the Civic magistrates, they were stripped of one great inducement to seek the freedom of corporations, as well as of the chief recommendation for obtaining it. This disability, co-operating with the persecuting spirit of the times, gradually deterred them from soliciting even the imperfect franchise, which remained. It also became more difficult to obtain it. Partial prohibitions were enacted, by express Statutes, against taking Catholic apprentices. Consequently, freedom by *service* was rendered less attainable : and, the number of Catholic freemen by service being thus circumscribed, those entitled by *birth* decreased in proportion. And, although the rights of voting, which they lost by the Statute of 1727, were nominally restored by the Statute of 1793, yet the Catholics have not, in reality, derived any benefit from this restoration. For, the long lapse of Sixty-six years of incapacity having effected a complete exclusion of the Catholics from Corporations, they were obliged to resort



to the third mode of acquiring their freedom, CHAP. III.  
 namely, by Grant, or “ grace especial,” as it Freedom of Corporations.  
 is termed. This power of granting freedom by  
 “ grace especial” being, however, vested in the  
 existing members of the Corporations, the exercise  
 of it in favour of Catholics remains suspended  
 by the hostile spirit of the Penal Laws ; except, Not attainable by Catholics.  
 perhaps, in rare and occasional instances, where  
 a Catholic, by the influence of private friend-  
 ship or of money, contrives to be a favourite  
 with the proprietor of the Corporation, or with  
 its leading interests.

Nay, even where a Catholic happens to be le-  
 gally entitled to his freedom, either by Birth or  
 Service, his admission is generally obstructed.  
 His Petition is not, indeed, directly refused ; for, Their Petitions “ cushioned.”  
 in that case, a *Mandamus* might lie to compel  
 a compliance with it, but no answer is returned ;  
 and the consideration of the subject is adjourned  
 “ *sine die*.” This is termed, “ cushioning a  
 “ Petition.”

In the city of Dublin, for instance, the 24 In Dublin 2400  
Freemen.  
Not 100 Catho-  
lic Freemen.  
 Guilds or Fraternities comprize, as is supposed,  
 about 2,400 Freemen. Probably not 100 of  
 this number are Catholics ; and these, though  
 free of their respective Guilds, and capable of  
 voting at Elections of officers within those  
 Guilds, are yet incapable of voting at Elections

CHAP. III.  
Freedom of  
Corporations.

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of Members to serve in Parliament for the city ; for they are uniformly “cushioned” when petitioning to be made free of the City at large. The like practice prevails throughout the other Corporations of Ireland.

Hence, although no express Law prohibits Catholics from becoming Freemen of cities and towns corporate, yet so many are the obstacles and discouragements in their way, that, in fact and practice, they are almost wholly excluded from this franchise.

Corporate freedom offered to all foreigners, French, Turks, Jews, Atheists, &c.

Whilst such is the jealousy of the Law against Catholics, the natives of the Land, possessing talents, industry, property and known integrity, it is curious to observe the unbounded liberality of the Irish Legislature, in holding out inducements to the natives of all other countries, (French, Dutch, Genevese, Turks, Jews, and Atheists) to settle in the cities and towns of Ireland, and accept the Corporate Franchise.

This appears on the face of the Statute book, in various Acts, from 1664 down to 1796.

Stat. 14 and 15  
Cha. 2. ch. 15.

They commenced by declaring, that “ All Protestants (*strangers and others*) then residing in, or *thereafter coming into*, any city, town, &c. shall, upon tender of 20s. fine to the chief magistrate, be admitted freemen, or members of any Guild, &c.

“ And shall, during residence for the most CHAP. III.  
 “ part, enjoy all the privileges of freemen, and Freedom of Cor-  
 “ be taken as denizens ; *they first taking the* porations.  
 “ *oath of supremacy, &c.*

“ A penalty of £100 is imposed, by this  
 “ Statute, upon any chief magistrate refusing  
 “ to admit such person : and the person so Facility ad-  
 “ refused may, upon taking these oaths before mitting original  
 “ any neighbouring magistrate, become a free- ers to Freedom.  
 “ man, *ipso facto.*”

Here we stop to record a proposition to ex- Parliamentary  
 tend the benefit of this Act to Catholics, which Debates of  
 was made, but unsuccessfully, by Mr. Osborne, Ireland, 4 Feby.  
 (now Mr. Justice Osborne) in the debate upon 1793.  
 the Catholic Act of 1793 in the Irish Parliament.  
 The proposition was warmly supported by Mr.  
 John Bagwell, then a member for the County of  
 Tipperary, in the following terms, viz

“ I strongly recommend it to the Right Mr. Bagwell's  
 “ Hon'ble Secretary (now Earl of Bucking- recommendation  
 “ hamshire) to extend the benefits of this Act in 1793, for  
 “ of 14 and 15 Charles II. to the Catholics as granting the  
 “ well as to the Protestants, and thus to give freedom of Cor-  
 “ them a solid and substantial advantage, porations to  
 “ *relieving them from the heavy and op-* Catholics.  
 “ *pressive demand of Tolls, which, on most* As a relief from  
 “ *occasions, operate in opposition to the in-* oppressive Tolls  
 “ *terest of the industrious citizen.*”

## CHAP. III.

Freedom of  
Corporations.

4 Geo 1. ch. 9. The Legislature further extended this premium to Protestant *foreigners*, by a Statute of 1718, declaring, that they should be *naturalized*, and exempted from Municipal Offices and taxes for seven years.

19 and 20  
Geo. 3. ch. 29.

Again, in 1780, they enacted, that *all* foreigners, upon taking the oath of supremacy, should be deemed naturalized, and exempted from serving upon Corporation or parish Offices for seven years.

The preamble of this Act strongly exemplifies the profession of enlarged policy, united to the practice of religious intolerance. It recites, that

*Ziberal* preamble  
to an *illiberal*  
Statute of 1780.

“ *Whereas the 'increase of people is a*  
“ *means of advancing the wealth and strength*  
“ *of any nation ; and whereas many foreigners*  
“ *and strangers, from the lenity of our Govern-*  
“ *ment, the benefit of our Laws, the advantages*  
“ *of our trade, the security of our property,*  
“ *and the consideration of the plentifulness of all*  
“ *sorts of useful and profitable commodities*  
“ *with which Ireland abounds, might be in-*  
“ *duced to settle in the kingdom, if they were*  
“ *made partakers of the advantages and pri-*  
“ *vileges, which the natural-born subjects of*  
“ *this realm do enjoy, &c.*”



Strange infatuation ! that could avow such admirable principles of political wisdom, and yet persevere in a religious oppression, disgraceful to every sacred name !

CHAP. III.

Freedom of  
Corporations.

In 1784, the Irish Legislature renewed their suit to foreign Colonists, by a fresh invitation—  
(with an exception, however, against *Jewish* visitors.)

23 and 24  
Geo. 3. ch. 38:  
51.

But, in 1796, they removed the landmark of Christianity itself in this instance: for they enacted, that “ *All* foreigners of every description, (*not excepting Turks, Jews, or Atheists*) shall become naturalized, liege, and free subjects of this kingdom, upon settling and taking the oaths of supremacy, &c.” that is, upon taking oaths, which all persons whatsoever, whether they believe in any Religion or in none, can conscientiously take, the *Catholics alone excepted*.

36 Geo. 3. c. 48

In 1796, Irish  
Corporations  
opened to *Turks*  
*Jews*, and  
*Atheists*.

But not to *native*  
*Catholics*.

Thus are the Cities and towns of Ireland peopled and governed: and this is the system of Municipal legislation, framed and enforced by Protestant masters against their Catholic subjects. It prefers the foreigner, the outcast, the infidel—to the native Catholic. Contrary to the received maxims of all other nations, ancient or modern, the antiquity of a man's family or settlement in the country constitutes his

Principles of  
Protestant mu-  
nicipal govern-  
ment in Ireland,  
in 1812.

## CHAP. III.

Freedom of  
Corporations.

disqualification from trust; the recency of his arrival is his merit. To adhere to the Religion of his ancestors is a crime; to reject all religion is a passport to power. This is the practical wisdom of the British Protestant Government.

That this system is just or honourable, or creditable to the Protestant Religion, or consistent with the spirit of any good Religion, it would be difficult to demonstrate.

“ I cannot conceive,” said Edmund Burke, “ how *any thing worse* can be said of the Protestant Religion of the Church of England than this—that wherever it is judged proper to give it a legal establishment, it becomes necessary to deprive the body of the people, (if they adhere to their old opinions) of their liberties, and of all their free customs; and *reducc them to a state of civil servitude.*”

*Civil Servitude*  
of the people of  
Ireland, as de-  
fined by Edmund  
Burke.




## CHAP. IV.

*“ Of the Laws, which deny to the Catholics  
 “ the right of being eligible to various  
 “ Offices, connected with the Profession  
 “ and Administration of the Laws.”*

BEFORE we enter into a detail of the many Offices comprehended within this class of prohibition, we hasten to render an honourable homage to the public virtue of the Protestant Bar of Ireland. We can say, with truth and gratitude, that the Protestant Bar have never solicited or favoured the interdiction of Catholics from the profession of the Law, or from advancement to its offices, or indeed from any other right or privilege of the Constitution. To their eternal honour, they have, throughout every discussion of Catholic complaints, uniformly evinced a sincere and active liberality of principle. Even when it was proposed to repeal those clauses of the old Penal Laws, which

*Eulogium upon  
 the Irish Bar.*

*Their uniform  
 liberality.*

CHAP. IV. sanctioned Bills of Discovery, and confiscations  
 of Catholic property, and consequently formed

The generosity  
 of the Irish Bar.

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the most lucrative branch of professional practice, the Bar of Ireland not only did not oppose or retard the measure, but with manly and memorable zeal stood forward in its support, and cordially contributed to its success.

Indeed, the Members of this honourable profession possess claims of peculiar strength and justice upon the affection and esteem of the Irish People of every description. The Catholics especially, as the most exposed to oppression and injustice, have derived from them the most essential support: and have invariably found a bulwark of protection, almost their only one, in the generous and intrepid advocacy of the Irish Bar.

To the Anti-Catholic code of Laws, therefore, not to any illiberal spirit of monopoly in the Members of this profession, is attributable the class of Exclusion, which we are now to consider, and which comprehends almost every desirable Office in the Profession, or the Administration, of the Laws. The Offices of this description, which the Catholics are forbidden to aspire to, by the express letter of the Statutes, are the following, viz.

Enumeration of  
 Law Offices, &c.  
 interdicted to  
 Catholics.



Lord High Chancellor, or Keeper or

Commissioner of the Great Seal 1

Master or Keeper of the Rolls - 1

Justices of the King's Bench - 4

Justices of the Common Pleas - 4

Barons of the Exchequer - 4

Attorney and Solicitor General - 2

King's Serjeants at Law - - 3

King's Council (present number) 26

Masters in Chancery - - 4

Chairman of Sessions for the County

Dublin - - - 1

Counsel to the Commissioners of Re-

venue - - - 2

Recorders of Cities and Towns, about 60

Advocates in Spiritual Courts, about 20

132

Sheriffs of Counties - - 32

Of Cities and Towns, about - 20

Sub-Sheriffs - - 40

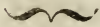
Total 224

Stat. 2 Eliz.  
ch. 1. Sect. 7.  
&c.  
2 Anne ch. 6.  
Sect. 15, 16.  
10 Will. 3. c. 13.  
21 and 22  
Geo. 3. ch. 48.  
Sect. 3.  
31 Geo. 3. c. 31.  
33 Geo. 3. c. 21.  
&c. &c. &c.

224 Law Offices  
interdicted to  
Catholics, by  
express words

To this number may be added 25 Commis-  
sioners of Bankruptcy, and 31 Assistant Bar-  
risters, or Chairmen of county Sessions: for,  
although the Catholics are not, by the *express*

Commissioners  
of Bankruptcy  
25—Assistant  
Barristers 31.

CHAP. IV. *Letter of the Law, disabled from holding these*  
  
*Offices, yet in practice they are excluded, with*  
*scarcely a single exception.*

Cases of Inter-  
 diction.

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There are, moreover, several other Offices of great power and effect in the Administration of the Laws, which, though commonly termed Ecclesiastical offices, yet are vested with ex-

Temporal Juris-  
 diction of eccle-  
 siastical Officers.

tensive Jurisdiction, in temporal matters, over the persons and properties of the Catholics. Of this nature are those which decide upon questions of Wills of personal property; Marriage, Tythes, and other incidental subjects of moment. Such are the Offices of Vicars General of the 26 dioceses of Ireland, the Court of Delegates, Prerogative Court, Metropolitan Court, Consistorial Court, &c.

Case of Doctor  
 M. Lynch,  
 1804—coram  
 Dr. Duigenan.

From all offices in these courts, probably 50 in number, the Catholics are excluded; nay, they are prohibited from practising in them, as Advocates.

Advocates.

Proctors.

The Proctors in these courts are, apparently, subject to the same regulation. Their number in Dublin amounts to nine, and, in the country, they may be estimated at forty.

Public Notaries.

Public Notaries are marked by the like proscription. The exclusion of Catholics from this office, or faculty, (notwithstanding the Statute of 1793) was indirectly effected in the

year 1800. Certain novel regulations for that purpose were framed, by the procurement of Doctor Patrick Duigenan, who is the chosen deputy of Doctor William Stuart, Archbishop of Armagh, and Primate of all Ireland; and, as such *worthy* deputy, holds the office of "Master of the Faculties," pursuant to the Statute of 25 Hen. 8.

CHAP. IV.

Public Notaries.

Case of John  
Callaghan, in  
Chancery,  
1803—7.

The Public Notaries in Ireland amount to about 56 in number.

The *consequential operation* of the exclusion of the Catholics from all these offices reaches, naturally and necessarily, to all the beneficial subordinate situations. Such are those of Registers to Judges, and to Vicars general: Secretaries, Deputies, Court officers, Clerks of the Crown, Clerks of the Peace, Assistants in the various Law offices, Solicitors and Treasurers to numerous public Boards and establishments, agents, clerks to great public officers, &c. Of all these subordinate, but lucrative, offices we may reasonably estimate the actual number, as exceeding 1000.

Subordinate  
Offices 1000.

Thus there appears to be a total number of nearly 1500 offices, connected with the profession and Administration of the Laws, which are interdicted to the Catholics, either by the express Letter, or by the necessary operation of the present Penal Code.

Total number  
1500 Offices  
the Law.

## CHAP. IV.

Injury of this  
exclusion.

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160 Offices  
interdicted to  
Catholic *Burris-*  
*ters.*  
1500 Offices in-  
terdicted to Ca-  
tholic *Attornies,*  
clerks, students,  
&c.

OF the injury and degradation which this interdiction inflicts upon the Catholic Body, we need not offer any stronger evidence, than the fact of the interdiction itself. *One hundred and sixty* legal offices, of honour and of emolument, are inaccessible to Catholic Barristers, and open to Protestants: *Fifteen hundred* offices are reserved solely for the ruling class, to the exclusion of Catholic students, solicitors, attornies, clerks, &c. &c.

Can it be doubted, that this exclusion must aggrieve the Catholic community at large?—that it intercepts the fair rewards of diligence, and the earnings of cultivated talent—that it circumscribes the opportunities of providing for the children of Catholic families, abridges the means of subsistence, obstructs the paths of Catholic industry, and the hopes of occupation? That all this is unjustifiable, nay almost ridiculous, the soundest Statesmen have repeatedly pronounced.

Testimony of  
Archdeacon Pa-  
ley.

We shall conclude this Article with the testimony of a Protestant political philosopher, Arch-deacon Paley.

Mor. and Polit.  
Philos. vol. 2.  
ch. 10.

1804.

“ It has been asserted,” says he, “ that discordancy of Religions is enough to render men unfit to act together, in public stations. But upon what argument, or upon what



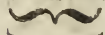
“ experience is this assertion founded ? I per-  
 “ ceive no reason, why men of different religious  
 “ persuasions may not sit upon the same Bench,  
 “ deliberate in the same council, or fight in  
 “ the same ranks, as well as men of various or  
 “ opposite opinions upon any controverted  
 “ topic of natural Philosophy, History or  
 “ Ethics.”

CHAP IV.

Paley's opinion.

“ Why should not the Legislator direct his  
 “ Test against the political principles which he  
 “ wishes to exclude, rather than encounter them  
 “ through the medium of *religious Tenets* ?  
 “ *Why should a man, for example, be required*  
 “ *to renounce Transubstantiation, before he*  
 “ *is admitted to an Office in the State, when it*  
 “ *might seem to be sufficient that he abjure*  
 “ *the Pretender ?*

Mor. and Polit.  
 Philos.—vol. 2.  
 ch. 2.



## CHAP. V.

*“ Of the Laws, which disqualify the Catholics  
 “ from holding Offices in the Army and  
 “ Navy, and obstruct them in exercising  
 “ their Religion therein.”*

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 SECTION I.
 

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Uniformity  
 necessary in the  
 Military Code.

UNTIL the Act of Union, in 1800, the Military and Naval establishments of Ireland had remained distinct and separate from those of Great Britain. They are now incorporated into one ; and the chief government and superintendence of the united force are seated in Great Britain. It is manifest, therefore, that the Laws and regulations, which affect its members, ought to be uniform, consistent, and general, not varying with the accidents of place or service. The Army and Navy of the empire are liable, from their very nature, to frequent changes of station.

The order of distribution, which allots the British or foreign service to a regiment or a ship of war in one year, may render Ireland the destined station in the year following; and “*vice versa*.” Hence, it must be a nugatory system, a pitiful mode of levying armies, that would qualify a man for this service in the one Island, and disqualify him in the other. To invite the Catholic in Ireland, for example, to enter into the army and navy, by holding out to his hopes the prospect of qualified promotion, or any other inducement local and limited to Ireland, guaranteed solely by an Irish Statute, but denied by the Laws of Great Britain, is a proceeding as illusory towards the Catholic, as it is unworthy of a wise and liberal Legislature.

CHAP. V.

False hopes held  
out to the Ca-  
tholics.

Now, the Law of England rigidly excludes all Catholics from the right of bearing offices in the army and navy; nay, it inflicts penalties upon any Catholics, who shall presume to hold them. The Law declares,

“ That every person who shall be admitted  
“ into any office, *civil or military*, or shall  
“ receive any pay, salary, fee, or wages, by  
“ reason of any office or place of trust, or by  
“ reason of any patent or grant from his Ma-  
“ jesty, shall publicly take the Oaths of Su-

Engl. Stat.  
25 Cha. 2. c. 22  
commonly called  
the Test Act,  
explained by  
2 Geo. 2. c. 26.

CHAP V. “ *premacy*, abjuration, &c. and take and sub-  
 Test Act. “ scribe the *Declaration* against Transub-  
 “ stantiation, the Mass, &c. and also receive the  
 “ Sacrament publicly according to the usage  
 “ of the Church of England within 6 months  
 “ after his admission, under a penalty of £500  
 “ and disability to hold the office.”

9 Anne, ch. 6.  
 Sect. 18.

A similar Law, but with still heavier penalties, was enacted in Ireland; and remained in full force until 1793, when it was repealed by an Irish Statute, as to all military offices, except those of Master or Lieutenant General of the Ordnance, Commander in Chief of the Forces, and Generals on the Staff.

33 Geo. 3.  
 ch. 21. Sect. 9.

But the disqualifying Laws of Great Britain, upon this subject, remain still in full force, stern and unmitigated.

Incongruity of  
 the Military  
 system.

Hence arises a palpable incongruity in the Military system of this empire, and an effectual repulsion against all Catholics, both in the army and in the navy.

What avails the Irish Statute of 1793 to the Catholic Ensign or Midshipman, if the removal of his regiment or ship from the Irish to the English station renders him subject to the English Test Act, and compels him to abandon the profession of his choice? He has no protection or remedy. The Law, upon which he



relied, becomes a dead letter. This difficulty has been left unprovided for, though certainly not unforeseen.

CHAP. V.

Promises made  
to the Catholics  
in 1793; not  
fulfilled.

The Irish Secretary (Hobart, now Earl of Buckinghamshire) when introducing, on the part of the Crown, the Catholic Bill of 1793 into the Irish Parliament, announced an intended arrangement for removing this difficulty in England. "As to the Army and Navy," said he, "it is in the contemplation of the government of England to admit Roman Catholics to bear commissions in these departments of the state: and measures for the same purpose shall in due time be proposed."

Irish parl. Deb.  
1793, Feb'y. 4.

The like promise was made by the government, in the Upper House, through the Earl of Clare. Yet no such measure has been since adopted.

This inconsistency of the Military Code was anticipated exultingly in 1793. As an instance, we shall offer an extract from the speech of the well known Patrick Duigenan in opposition to that Bill (with an apology, at the same time; to our liberal readers, for citing such a man as any authority :) but persons of a certain stamp are often best falsified by their own words.

## CHAP. V.

Irish Parl. Deb.  
1793

Duigenan's pre-  
diction, upon  
the effect of the  
Catholic Bill, of  
1793.

“ If the Irish Law,” said he, which excludes  
“ Catholics from all military employments, was  
“ to be repealed, *they could reap no advantage*  
“ *from it ; for the employments in the Navy*  
“ *would be disposed of to such persons only as*  
“ *are qualified to take them by the English*  
“ *Laws, which exclude Catholics.*  
“ The same may be said of *all employments*  
“ *in the Army ; for they are disposed of by the*  
“ *King.*

“ If the King shall confer military commis-  
“ sions upon Catholics in such parts of his  
“ army as are upon the Irish establishment, he  
“ will act in direct violation of the English  
“ Laws. And if the Acts, which exclude Ca-  
“ tholics from military employments, are to be  
“ repealed in Ireland, and Catholics are to be  
“ appointed to such employments, *the moment*  
“ *any regiment upon the Irish establishment*  
“ *shall be ordered out of the kingdom, all*  
“ *commissions of Catholics serving therein*  
“ *will be instantly void.*”

This prophecy, pronounced at random, and prompted by the sudden impulse of a blind and bitter spirit, has, however, been literally fulfilled ; owing to the fatality of the public councils being guided by the same in-

tolerance, which dictated this graceless exultation.

CHAP. V.

Insincerity of  
the Irish govern-  
ment of 1793.

Thus the plausible shew of relief, held out by the Irish Statute of 1793, proves a mere phantom: an insidious abuse of Catholic credulity: a lure, merely calculated to decoy Catholics into the Army and Navy. The framers of it have incurred the imputation of being uncandid enough to accept the services of Catholics thus procured: and unjust and illiberal enough to defraud them of the honourable rewards, impliedly guaranteed to them in Parliament. Such was the spirit of temporising and reluctant concession.

It follows, that a prudent Catholic will not hastily commit his son to the profession of Arms. It might be a waste of his time to expend it in soliciting the appointment of Midshipman; and a misapplication of his money to invest it in the purchase of a commission in the Line. The Catholics of Ireland are not so improvident or so destitute of shrewdness, as to yield to follies in despite of experience: recollecting the memorable reply, made in similar circumstances to the faithless Patricians of Rome: “*Nunquam unum militem daturus, ni præstaretur fides publica: libertatem unicuique prius reddendam esse, quam arma dæda; ut pro patriâ civibusque, non pro Dominis, pugnent.*”

Prudent Catholics may decline the military profession.

*Liv. lib. 2.*

## CHAP. V.

The Catholics  
are now disqual-  
ified from  
20,000 Offices,  
Naval and  
Military.

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The number of offices, from which the Catholics are thus excluded, appears pretty fully from the printed lists of the Army and Navy. The various regiments of cavalry, infantry, marines, artillery, invalids, the garrisons in Europe and in all the foreign colonies, the various ships of war of all rates and sizes, the dock-yards, store-yards, &c. may be moderately estimated as comprizing *twenty thousand* offices, of power or emolument, from which the Catholics are utterly excluded at this day (1811) by the existing Laws of Great Britain.

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## SECTION II.

Consequential  
mischief to Ca-  
tholics.

Ante, p. 63.  
&c.

Hostility  
towards Catho-  
lics.

THE *Consequential operation* of this exclusion of Catholics from offices in the Army and Navy has been frequently dwelt upon in Parliament, but cannot be exaggerated. It must render many military and naval officers personally hostile to Catholics, partly from the want of opportunities of society or acquaintance with them, and partly from the very existence of this Exclusion. It inspires them with sentiments of habitual scorn and contempt towards the Catholics; and influences their conduct according-



ly, when on duty. These impressions have been frequently evinced by generals in command (and particularly on foreign service) whose names can be mentioned. It is quite natural that inferior officers should adopt the tone and imitate the practice of their commanders. In all lucrative appointments within their disposal, or connected with the Army or Navy, they invariably reject the Catholics. The commissaries, agents, contractors, prize masters, pursers, clerks, treasurers, medical assistants, purveyors, store-keepers, barrack-masters, garrison officers, &c. &c.—are almost universally Protestants.

CHAP. V.

Mischief of this exclusion.

Subordinate situations monopolized.

Hence it is not surprizing, that the Catholics, having no relative connection or near friend of any note, in the army or navy, or profitably connected with the military service, are altogether indifferent about military events. Throughout all their ranks and classes, the poor as well as the rich, they are continually occupied in brooding over the melancholy spectacle of their own degraded condition, their wrongs and their sufferings. Their public feelings are wholly absorbed in the sad contemplation of the evils peculiar to their own condition, and in projecting the means of redress. Neither triumphs nor defeats excite in their minds any lively interest, or awaken any earnest attention.

Apathy of the Catholics about military events.

CHAP. V. *They scarcely consider themselves as parties to any war or to any peace : neither elated by victory, nor mourning for disaster.*

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SECTION III.

Exercise of Religion checked.

NOT only are the Catholics thus excluded from all offices in the Army or Navy, but even they who by chance or vice, or necessity, have been thrown into the lowest ranks—the common soldiers and sailors—are obstructed in the free exercise of their Religion, and compelled to conform to an opposite worship.

This grievance, however loudly complained of, is only the necessary consequence of the existing Laws, and of the general Anti-Catholic system.

Freedom of worship equally restrained in Ireland as in England.

The Law upon this subject is precisely the same in Ireland as in England. It is comprized in the annual mutiny act, the manual of military regulation and government throughout this empire.

Stat. 51 Geo. 3. ch. 8. Sect. 1.

The Mutiny act declares, “ That it shall and “ may be lawful to and for his Majesty to “ form, make, and establish Articles of war, “ for the better government of his Majesty’s

“ forces, which articles shall be judicially  
 “ taken notice of by all judges, and in all  
 “ courts whatsoever.”

CHAP. V.

Restraints upon  
 religious  
 worship.

The Articles of war made and published in  
 pursuance of this Act, and by its authority,  
 direct, *inter alia*,

“ That all officers and soldiers, not having  
 “ just impediment, shall diligently frequent  
 “ divine service and sermon, in the places ap-  
 “ pointed for the assemblage of the regiment,  
 “ troop or company, to which they belong :

Articles of War  
 Sect. 1.  
 1811.

“ And that such as wilfully absent them-  
 “ selves, or, being present, behave indecently or  
 “ irreverently, shall, if commissioned officers,  
 “ be brought before a Court-martial, there  
 “ to be publicly and severely reprimanded by  
 “ the President : if non-commissioned officers  
 “ or soldiers, every person so offending shall,  
 “ for his first offence, forfeit twelve pence,  
 “ to be deducted out of his neat pay : for the  
 “ second offence, he shall not only forfeit  
 “ twelve-pence, but be laid in irons for twelve-  
 “ hours : and for every like offence shall  
 “ suffer and pay in like manner.”

Hence it appears, that, by Law, all officers  
 and soldiers, including Catholics as well as  
 others, are compellable to attend at, and dili-  
 gently to frequent, such places as may be ap-

CHAP. V. pointed for the purposes of divine service and sermon. The places hitherto appointed (except in some instances, confined to Ireland alone) have been places of Protestant worship.

Catholics are compelled to frequent Protestant places of Worship.

The Protestant officers are not obliged, by any Law, to appoint places of Catholic worship for Catholic soldiers.

Severity of this restraint.

They are fully authorized to march them to Protestant places of worship, and as often as they please. This arrangement is peculiarly distressing to members of the Catholic communion. They are obliged, by their religious tenets, to frequent divine service punctually. *“ To assist, devoutly and regularly, at the celebration of Mass, upon every Sunday and holyday throughout the year,”* is one of the six principal commandments of the Catholic Church. This is not a matter of option or convenience, or lightly to be dispensed with. The wilful violation of this injunction is regarded as a heinous sin. Every Catholic is so instructed from his early years. A conscientious Catholic will hesitate much before he enters upon any profession or pursuit in life, which must necessarily induce the habitual violation of a Religious command, so essential in itself, and so revered by him from his youth. He will, therefore, not select the



military or naval profession, under the present system of Laws and government.

CHAP. V.

Punishment  
upon Catholics  
in the army and  
navy.

For it is manifest, that, whenever he absents himself wilfully from the appointed place of Protestant worship, or refuses to attend there, or frequents a place of Catholic worship contrary to orders (as in Great Britain, Spain, Portugal, &c.) he is liable to severe punishment. He may not only be fined and laid in irons, for twelve hours, as we have seen, but he incurs the ill-will of his commanding officer, and becomes the object of frequent ill-treatment, and harsh personal reproaches. This course frequently provokes the obnoxious Catholic to use disrespectful language in return, and thus involves him in some further act, perhaps rendered punishable, by the military code, with stripes, or with death.

One of these Articles of war directs,

Art. of War,  
Sect. 24, 1811.

“ That all crimes, not capital, and all disorders and neglects, which officers or soldiers may be guilty of, to the prejudice of good order and military discipline, though not specified in the said rules and articles, are to be taken cognizance of by a general or regimental Court-martial, according to the nature and degree of the offence, and to be punished at their discretion.”

## CHAP. V.

Effect of the  
Articles of War  
against Catholic  
worship.

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This article confers upon Courts martial an authority, unlimited and absolute, of declaring what disobedience shall be considered a *disorder* or *neglect*, or to the *prejudice of good order* or *military discipline*, and of punishing such offence at *their discretion*.

It is easy to perceive, that a firm perseverance in the practice of frequenting Catholic service, or a peremptory refusal to frequent Protestant churches, or to hear the sermons of the regimental chaplains at the drum-head, may be construed as an offence falling within the description of “ disorders or neglects, or pre-  
“ judicial to good order and military discipline,  
“ and punished accordingly.”

1<sup>st</sup> Geo. 3.  
ch. 8. Sect. 1.

Moreover, the Mutiny Act itself, by the very first Section, directs, “ That every officer or  
“ soldier who shall *disobey any lawful com-  
“ mand* of his superior officer, shall suffer  
“ *death*, or such other punishment as by a  
“ Court-martial shall be awarded.”

This enactment places the entire question at the disposal of a Court-martial. There can be no doubt, that an order directing the Catholic soldiery to frequent Protestant churches would be deemed a *lawful command*, and that an infraction of it may be punished with death.

Under this system, the Catholic officers and soldiers are compelled to attend personally at the celebration of the Protestant worship. They are forbidden to attend at Catholic houses of worship, or to receive spiritual assistance from the clergy of their own religion. Such are the regulations : such also is the practice. The fact is notorious. This coercion has excited universal dissatisfaction in the army, whether stationed in South America, Spain, Portugal, Sicily, Great Britain, or Ireland. Numberless instances of it have occurred, and under every general officer, who has held any command. Even the late Sir John Moore, one of the most enlightened and estimable men that ever wore a sword, was compelled by his instructions to enforce this Code, and to refuse permission to Catholic clergymen to attend the Catholic soldiers of his army in Spain and Portugal.

The like coercion is rigidly applied to the Navy. Nothing but Protestantism is there tolerated.

The Irish Statutes of 1792 and 1793 are profoundly silent respecting any legal enactment securing the appointment of Catholic regimental chaplains, or any other provision for the free

CHAP. V.

Catholics are  
coerced in their  
worship.

Irish Statutes of  
1792 and 1793  
have left this  
subject in silence  
and neglect.

## CHAP. V.

Precarious re-  
liance upon  
military orders.

exercise of the Catholic religion in the army or navy.

In this respect, therefore, the Law of Ireland affords no greater protection than that of England. The Commander in Chief for the time being may, no doubt, issue or recall military orders upon this subject, at his pleasure. But any violation of such orders may easily be connived at, and must be endured. It is not cognizable by the civil courts: it affords no claim to legal relief; no ground for inquiry in a court of Law.

No protection in  
military courts.

A military court of inquiry, or Court-martial, may institute or may stifle a remedial proceeding: but the Statute Law of the Land provides no redress for the injured and insulted Catholic, who may be prohibited from worshipping his Creator in his own way, or compelled to an outward conformity with ceremonies of worship, which his conscience has been taught to condemn.

Reasoning of a  
Catholic soldier  
or sailor.

Upon this subject, then, the Catholic soldier or sailor is entitled to ask, “ Why should any religious test be proposed to me in either country, or what concern have religious differences with military duty ? ”

How can any man be rendered the worse soldier or sailor, by a proper respect for the



quiet and purity of his conscience, or by a decent regard for the religion of his forefathers?

CHAP.

Religious re-  
straint in the  
Army and Navy.

Is it not natural to suppose, that a *disturbed conscience*, inward self-reproach, and the unsteadiness that marks the apostate, are but indifferent preparatives for a service of *fortitude*, obedience, patience, regularity, and constant *peril*?

Whilst, therefore, the Government thinks proper to persevere in this religious warfare, would it not be humane, as well as honourable, to discharge from the service all Catholic Soldiers and Sailors, and to forbid altogether the levying or enlisting of any more? For that system of Legislation must appear somewhat cruel, nay almost wicked, which compels a man to *become an apostate in order to be a soldier*; to turn his back to his religion, before he can present his face to an enemy; to abandon the service of his God, as the only mode of promoting that of his country: and *having renounced his faith, and forfeited the esteem of his family, friends, and early acquaintance, to rush with a self-accusing conscience and reprobate soul, upon dangers, desperate encounters, and death!!!*

Hard condition  
of a Catholic  
Soldier or Sailor.

Apostacy, re-  
probation, &c.

## CHAP. VI.

*“ Of the Laws, which disqualify the Catho-  
 “ lies from holding various other Offices  
 “ of Trust, Honour and Emolument, not  
 “ already classed or enumerated.”*

Compleat ex-  
 clusion of  
 the Catholics  
 from all offices.

THESE Laws nearly complete the exclusion of Catholics from all desirable offices and situations. Whatever was not already comprehended by the Laws stated in the foregoing chapters, whether as to power, patronage, profit or honours, is carefully gleaned together and compiled in this class of proscription. Hence, it is so far from being true, as has been studiously propagated, *that there now remain, besides seats in Parliament, only 30 or 40 offices forbidden to the Catholics*, that this assertion may with perfect truth be inverted ; for in fact, *not more than 30 or 40 offices* (nay not so many) *are really accessible to Catholics, under the present Laws and spirit of Government.*

We shall proceed to our enumeration of the **CHAP. V**  
 offices not already classed or specified, viz.

|                                                               |       |    |
|---------------------------------------------------------------|-------|----|
| Lord Lieutenant, Lord Deputy, or<br>other Governor of Ireland | -     | 1  |
| Lord High Treasurer, or Lords of<br>Treasury                  | - -   | 8  |
| Custodes Rotulorum of Counties                                | -     | 32 |
| Governors of Counties (present num-<br>ber)                   | - -   | 85 |
| Privy Counsellors (present number)                            |       | 90 |
| Postmasters General                                           | -     | 2  |
| Chancellor of the Exchequer                                   | -     | 1  |
| Secretary of State                                            | - - - | 1  |
| Vice Treasurer                                                | - - - | 1  |
| Teller, or Cashier of the Exchequer                           |       | 1  |
| Keeper of the Privy Seal                                      | -     | 1  |
| Auditors General                                              | - - - | 2  |
| Provost of Dublin University                                  | -     | 1  |
| Fellows of the University                                     |       | 22 |

Stat. 2 Eliz.  
 ch. 1. Sect. 7  
 2 Anne, ch. 6.  
 Sect. 15, 16.  
 10 Wil. 3. c. 13.  
 21 and 22  
 Geo. 3 ch. 48.  
 Sect. 3.  
 33 Geo. 3. c. 21.  
 Sect. 9.  
 3 Wil. & Mary,  
 ch. 2. *English*.  
 1 Anne, Stat. 1.  
 ch. 12. *English*.

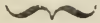
Catholics ex-  
 cluded from  
 248 additional  
 offices.

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Offices 248

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The foregoing list of offices and situations, of  
 trust, emolument or dignity, from which the  
 Catholics are excluded, by the express *Letter*  
 of the Law, comprizes about 248 in number. Re-enacted in  
 These disqualifications, too, have been re- 1793.  
 enacted, in express terms, so recently as in the

CHAP. VI. year 1793. For the Irish Legislature of 1793,  not deeming the Protestant church establishment sufficiently guarded against the Catholic people, by reserving and re-enacting all the disqualifications specified in our preceding chapters, by excluding the Catholics from both Houses of Legislature, from all offices in the law, in the army or navy, in cities or in corporate towns, deemed it a necessary precaution to exclude them also from those 248 offices.

Irish Parliament  
of 1793.

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33 Geo. 3. c. 21. This has been effected by the 9th Section of the Catholic Bill of 1793: and thus the Law remains.

Subordinate  
offices forbidden.

Deputies, agents,  
treasurers, &c.

The Catholics, being thus disqualified from those remaining offices, are consequently excluded from all the subordinate situations dependent upon those offices: such as those of deputies, secretaries, treasurers, agents, clerks, &c. &c. and all their lucrative and valuable establishments. These are all rigidly Protestant; and their respective preferences, patronage, favour and assistance incline, naturally, towards their Protestant friends and connections.

Post Office.

Throughout the entire Post office establishment in Ireland, for instance, consisting of several hundred persons, there is scarcely a single Catholic to be found in a higher situation than that of a common letter-carrier; and few of even this class. The like may be affirmed



concerning all the other public boards and establishments of Ireland. Yet the far greater proportion of their salaries and emoluments is extracted from the labours and contributions of the Catholics.

CHAP. VI.

In a word, this unrelenting System of exclusion can neither be justified upon any principle of right, nor palliated by any shew of decency. It abounds in irrational contradictions and ludicrous inconsistency. That much of it proceeded from the personal caprice of the Legislators of 1793, or the reluctance and ill-humour with which they then conceded any relief to the Catholics, has been frequently alleged, and probably with truth. This may be the reproach of that Legislature, but not an argument against amendment. It may account for their conduct, but cannot be received as their vindication at the tribunal of Reason. On the contrary, it furnishes a strong proof, amongst many others, that the Statute of 1793 was really an unfinished work, and *stu-* Imperfection of the Statute of 1793. *diously left defective*: and that therefore a thorough revisal of it becomes annually more and more reasonable, and necessary to the quiet and welfare of Ireland.

# RETROSPECT

OF THIS

FIRST PART

OF

## The Penal Code.

### SECTION I.

*Severe pressure of the foregoing Penal Laws,  
upon all the Catholics.*

#### CHAP. VI.

Complete Sub-  
jection of the  
Catholics in all  
affairs.

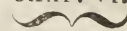
HERE we pause upon the FIRST PART of our  
afflicting Statement.

Enough has been adduced, in the foregoing **six**  
chapters, to shew that the Catholics are, by Law,  
completely subjected to the Protestants, and  
delivered over to their *exclusive* government and  
disposal, in all affairs of property, liberty, and  
life.

Sketch of the  
dominion enjoy-  
ed by the Pro-  
testants,  
thro'out  
the State.

It appears, that in the Protestants, *solely and*  
*effectively*, are vested all powers of imposing  
taxes upon the Catholics for public and general  
purposes, and indeed for every purpose—of enact-  
ing and altering Laws of every description, at  
their free-will and pleasure, for the regulation  
and controul of the Catholics in all particulars :  
—of expounding those Laws:—of executing them

A. D. 1811.

with all the civil and military force of the Land : CHAP. VI.  
 —of occupying all offices in the Army and Navy   
 of the Empire : that is to say, of exercising full Subjection of the Catholics.  
 command and authority over FIVE HUNDRED  
 THOUSAND ARMED MEN in the public pay : and  
 finally, of compelling the Catholics to defray the  
 far greater part of the enormous charges, sa-  
 laries and emoluments, attached to this immense  
 multitude of lucrative situations.

It appears further, that the Laws even descend  
 from powers of a public and general nature, to  
 the local and minute powers residing in the  
 Government of each city and town—chase the In cities and towns.  
 Catholic from all participation in these powers,  
 and clothe each individual Protestant citizen  
 with the same immediate authority over the Ca-  
 tholic citizen, that the Protestant community at  
 large enjoy (through the Legislature, Army,  
 Navy, Judicial and executive offices of the Law,  
 and various other civil stations) over the Catho-  
 lic community throughout these Realms.

## SECTION II.

*Summary of the Penal Laws to be stated in  
 the SECOND part.*

IN the SECOND PART of our painful Statement, Heads of the remaining Penal Laws.  
 we shall exhibit this jealous and domineering  
 spirit penetrating still farther, and with insatiable  
 avidity.—We shall trace it in the lesser sub-  
 division of society, into parishes ; investing the

## CHAP. VI.

Heads of the remaining Penal Laws: to be detailed in the Second Part.

The Catholics aggrieved in the Parishes, in Land Tax, Parish taxes and income.

Right of bearing arms circumscribed, and unequally enjoyed.

Protestants subject to no restraint.

Judicial decisions.

Courts of justice. How understood and felt in Ireland.

Protestants in each parish with a monopoly of power over the Catholics—rigidly excluding the latter (for instance) from Parish Vestries, and inflicting upon them a burthensome Land-tax, fluctuating at discretion—disqualifying them from checking or interfering in the expenditure of the parish estate or income, yet compelling them to supply its annual deficiencies—imposing upon them arduous Parochial offices, yet disabling them from voting at Parochial Elections.

We shall moreover shew, that the Catholic is prohibited from exercising the valuable right of having or using arms, in the defence of his person, his family, dwelling or property, unless he possesses a certain property, and publicly conforms to certain statutable regulations: whilst the Protestant, however deficient in property or character, is allowed to riot without restraint in the enjoyment of this great privilege—an inequality of rights, which frequently produces lamentable instances of aggression and outrage, especially in the Northern and Western districts of Ireland!!!

We shall unfold a system of Judicial decision, hostile to the Catholics, well-understood and universally felt in Ireland, deeply involving the purity of the administration of justice in Ireland: and detail those Penal clauses and partial regulations, whereby the Catholic is made practically to feel, that he cannot with implicit confidence appeal to Courts of Justice in any case, where the influence of the Crown may be



adversely exerted, or where religious prejudices may otherwise be called into action. CHAP. VI.

We shall advert to the ungenerous spirit of insult, which exacts from all Catholics, (through the medium of Qualification tests) the humiliating duty of disclaiming and disavowing, upon Oath, ignominiously, in public Courts, various disloyal, faithless, superstitious, and murderous principles: thus presupposing them to hold tenets, of which even the suspicion may attach infamy.

Heads of the remaining Penal Laws.

Opprobrious imputations continued: thro' Test Oaths:

We shall not overlook the various subordinate clauses of this Penal code, which eternally teaze and worry the Catholics of all ranks and classes, in a degree not to be described, and scarcely even to be imagined.

Subordinate Clauses; vexatious and irritating.

Finally, it will be shewn, that these Penal Laws, by their very existence and necessary influence, stigmatize the Catholics as an inferior race, unfit for trust or power, marked for the scorn, derision, and opprobrium of mankind: and that the helpless and unprotected condition of the Catholics hourly invites spurns and oppression. He, who recollects that the weak are commonly the victims of the illiberal, may form some estimate of the miseries which the Catholics, thus prostrate, patiently endure in Ireland.

The Catholics branded with scorn and opprobrium.

## CHAP. VI.



## SECTION III.

*Dissentions, necessarily excited by this Penal Code.*

Dissentions excited by this Penal Code.

UNDER this dreadful System, then, no hope of quiet or of concord can remain for Ireland : no prospect of honourable security for the Throne or the Empire.

The Catholics compelled to complain.

For, as this System grievously oppresses and irritates, the Catholics feel themselves bound, in prudence and in honour, to protest loudly and frequently against its existence, lest their silence might otherwise imply an acquiescence in its justice, or a submission to its spirit. These protests, thus provoked, are usually made through the medium of Petitions to the Legislature.—Every new petition excites a new opposition. A few agitators are employed to frame a counter-petition—hence an annual contest.

Consequent agitation.

The entire force of the Irish Government is mustered against the Catholics.—All, that depends upon official influence, comes forth in hostile array. The hired portion of the press, the expectants in church and state, the venal speculators, all are compactly embodied against religious liberty. If the petitioning Catholics hint at their great superiority of numbers, they are rebuked as guilty of falsehood : if they venture upon proof of the fact, they are accused of practising intimidation. If they feelingly dwell upon their grievances, they are roundly

Hardships imposed upon Catholic petitioners.

charged with wilful exaggeration : but, if they enter into a minute and faithful detail of those grievances, they are loudly vilified as incendiaries, who proclaim mischievous truths for traiterous purposes. If they solicit a Parliamentary inquiry through respectful Petitions, they are encountered by confident assertions, that those petitions are in direct opposition to the wishes and good sense of the Catholics at large : but, when they naturally endeavour to obviate this objection, when they resort to peaceable and rational measures for collecting and conveying the real sentiments of the Catholic body, and select their nobility, gentry, men of talents, learning, virtue and property for that purpose—the Lord Lieutenant of Ireland and his Secretary, and their agents, instantly excite an universal uproar, affect a serious alarm for the public tranquillity, and occupy themselves in circulating Proclamations, calculated to disunite the people, to alienate the Protestants, to hold forth the most spotless Catholics as instruments of sedition and treason, and as projecting a rival Legislation, in alleged violation of a dormant Statute.

In this spirit they institute State Prosecutions, with unusual parade, and at heavy public expense, against various Catholic gentlemen—grounded upon a rigorous interpretation of a Statute, menacing danger and penalty to Protestants as well as to Catholics : and, by such proceedings, it is attempted to drown the just

CHAP. VI.

Dissentions excited by this Penal Code.

Unfair accusations.

Contrivances, to prevent or frustrate Catholic Petitions.

Uproar raised against Catholic Meetings for the purpose.

A. D. 1811.

State prosecutions.

Attempts to drown all complaints.

CHAP. VI. complaints of the Catholics in national litigation and discord.

Dissensions excited by this Penal Code.

Its effect in promoting slanders, &c.

Its mischievous course.

Hence it necessarily follows, that, to the pernicious prejudices which these Penal Laws naturally cherish, are superadded the mischiefs created by the hostile Government; by its long chain of influence; its incessant activity; its organized exertions in reviving, inventing, and circulating every libel and slander, every pitiful jealousy, every sordid suggestion, every sentiment of fierce defiance against the doctrines, opinions, characters, and persons of the Catholic Petitioners.

Such is the course of this malignant spirit: such it must continue, whilst these Laws endure.

*It moves in a circle.* It compels Catholic petitions.—Petitions produce resistance.—Resistance re-produces this evil spirit, and so the mischief revolves.

#### SECTION IV,

*The Ignorance and errors prolonged by this Penal Code,*

This Penal Code renders reconciliation annually more difficult.

THIS Anti-Catholic system produces further mischiefs. It renders the great work of redress (whenever the proper time shall arrive, and *arrive it must*) annually more difficult. It prolongs the mutual misunderstanding between Great Britain and Ireland, and the ignorance



of each country respecting the actual state of SECT. IV.  
the other. It retards their cordial union, and  
identification of interests. For, under this Misunderstand-  
ing and errors  
prolonged by  
this penal Code.  
System, a Lord Lieutenant, Secretary, or other  
public Officer, coming from England, enters  
upon his public duties, not merely uninformed,  
but unable to procure information. He is hood-  
winked upon his arrival, and consigned to a  
certain class of persons, busy, intemperate, and  
practised in systematic opposition to Catholic  
freedom. These men carefully beset him, and  
block up every avenue, through which a Catho-  
lic might creep into esteem. They discredit  
every Catholic by whispers and insinuations:  
maligning him indirectly, but incessantly: and  
acting upon an unqualified proscription of the  
entire Catholic Body, without distinction of Instances of mis-  
representation,  
commonly prac-  
tised,  
persons, property, virtues, talents or other merits.  
Thus they poison the ear of every Visitor  
against the persons, principles and practices of  
all Catholics: and in this science they are emi-  
nently skilful.

The unsuspecting stranger gradually assents  
to their maxims, leans towards their wishes, and  
*is pre-occupied by their narratives.*—He can-  
not presume, that persons, who possess the exte-  
rior of civilized society, and perhaps high  
station or rank, would descend to wilful false-  
hoods.—He lends himself to their schemes, and  
acts upon their suggestions, until he finds it  
perhaps too late to retract. In time he probably

SECT. V. stumbles upon some awkward conflict with the Catholic Body, and commits himself, by some public act of glaring indiscretion. Should he incur disgrace or ridicule, his advisers abandon him to his fate, or perhaps are foremost in whispering his censure with feigned regret and moderation. Thus the system of delusion and error is upheld : truth is intercepted : the Catholics remain utterly unknown to the government : and the English Statesman retires in chagrin, confusion and disappointment : deeply initiated, indeed, in the business of pomp, parade, jobs, festivities, and corporate addresses ; but absolutely unacquainted with the People of Ireland, their habits, feelings or real interests.

See Lord Redesdale's Letters to Lord Fingall, in 1803.  
Duke of Richmond's proclamation, &c. &c. in 1811.

Lord Redesdale  
Ld. Manners,  
D. of Richmond

Be his fate what it may, the Catholics still remain the principal sufferers, in every change and event, and through all their ranks and classes.

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#### SECTION V.

*General virulence of this Penal Code, against the Catholic Peasantry, Poor, &c. &c.*

LET it not be pretended, then, that the grounds of Catholic Petitions are light or frivolous : that the Catholic peasantry, artizans and poor, are too lowly for the frowns and pinching malignity of this Penal Code : that it curbs only

the fancied ambition of wealthy and intelligent Catholics, but inflicts no injury upon the lower orders: that, in fine, their real causes of complaint are narrow or partial—not enforced by the wishes of the nation, or even by the sympathy of the Catholics at large.

SECT. V.

Virulence of this Code, against the Catholic peasantry, Artisans and Poor.

Alas! the Penal Code against the Catholics of Ireland is far from being in a relaxed or languishing state. No clause is permitted to slumber: no merciful connivance is tolerated: even obsolete enactments are now forced into fresh vigour. The System works incessantly, to the prejudice of every Catholic: and, though sometimes unobservedly, yet eventually with sure and grievous efficacy. Even when it bears a masked appearance, it is not less malignant, than when raging in the most furious aspect of persecution.

A. D. 1811.

No Catholic is so exalted by rank, fortune, or talent, or so depressed by poverty or ignorance, as to elude its baneful influence, to remain insensible of its contumelious and exasperating operation, or to suppress his murmurs against its long continuance.

Whichever way he turns, this monstrous System meets his eye, to dishearten and dismay him; to blast his best and fairest hopes for himself and his offspring. Whatever he utters, or does, or meditates, whether in the intercourse of public life, or in the bosom of his family: whether he struggles for the general good or for his personal welfare: whether he seeks the comforts of

## SECT. V.

Virulence of  
this penal Code;  
against the Ca-  
tholics of all  
ranks and classes.

harmless recreation, the rewards of active merit, or the advancement of his growing progeny, he still finds his paths continually obstructed by this Penal Code, its temper, its chain of influence, its partizans and its instruments. It frowns upon his approach, repels his touch, and frustrates his dearest and most rational wishes.

Thus, the Law, to others an object of attachment, gratitude and pride, is to the Catholic only a dark and gloomy barrier in life: exciting new struggles, new defeats: producing heavy injury, and loud complaints. The Law, in fine, bids him despond, and sink, hopeless of freedom, unrespected, in mute unavailing regret and chagrin.

Eagerness of all  
Catholics for  
complete relief.

Hence his natural and incessant eagerness for relief. Hence the throbbing agitation in the bosom of every Catholic, and of every class, whenever a ray of hope gleams upon his benighted condition.

This hope, this eagerness for relief, paralyzes his industry, and consumes the best energies of his soul. It distracts his studies: it benumbs his love of country and of Laws: all his faculties are absorbed in the fond, but fruitless, contemplation of this sole and favourite object.

May we venture to ask—Is not this alone an enormous Grievance? Is it not grievous, that the portion of time, and the leisure for other occupations, which the enjoyment of perfect free-



dom affords to his fellow citizens, must necessarily be consumed by the Catholic in perilous efforts for his own relief, and in the study of measures for facilitating this relief? And is not this a further and heavy TAX upon his time and his labour, or, in other words, upon his property?

CHAP. VI.

Their time and attention consumed by this pursuit.

## SECTION VI.

*An Appeal to Reason and Feeling, on behalf of the Irish Catholics.*

IF there be any candid man, who may be inclined to question this Statement as highly coloured, or to view this Anti-Catholic Code with indifference, we invite him to the unerring test of Reason and feeling: and we intreat him for a moment to imagine the case of the Catholic to be "his own."—Let him suppose himself to be so branded and incapacitated, as is here shewn; to be set aside and stigmatized by the Constitution, as unworthy of filling any office of trust, honour, or emolument in his native Country: to be forced to distrust the pro-

The candid opponent invited to the test of imagining the case of the Catholic to be his own.

\* This punishment of *disqualification from office*, though treated with levity in discussing Catholic Petitions, has never been viewed by the Laws as a matter of indifference. It has generally been directed against crimes of gross turpitude and profligacy only. It is the punishment (by Statute 11 Hen. 4.)

## CHAP. VI.

Appeal to the  
test of reason  
and feeling.

tection of the Law, in affairs of property, liberty, and life : to be peremptorily denied that share of distributive justice, which apports reward as well as punishment according to the deserts of each member of the community : to find closed against him every path, which his ambition, his courage, his genius, or his industry might prompt him to explore.—Let him imagine himself to be so taxed, so teased, so worried, and so contemned in his Country, as to feel his situation more vile, in many respects, than that of the “ outcast “ Jew.”—Let him see himself shunned in private society as a degraded Being, daily sinking

of “ Extortion by public Officers, bribery, corruption in the “ purchase and sale of offices.” It has also been visited upon him, who “ openly apostatizes, or renounces Christianity, or “ commits peculation or breach of trust, as a member of Parliament ; and the like *majora crimina*.” The offender, in such case, is incapacitated, in the emphatic words of the Statutes, “ *as if he was dead*.” (Hawkins, Pl. Cr.) Even the crime of Perjury is not deemed vile or heinous enough to be marked by this punishment.

“ An honest man,” as the *House of Peers* has solemnly declared, “ cannot be reduced to a more unhappy situation, than “ to be put, by Law, under an incapacity of serving his Prince “ and his Country, and therefore *nothing but a crime of the most “ detestable nature ought to put him under such a disability*.” (Opinion of the House of Peers, solemnly delivered to the Commons in a dispute respecting the Occasional Conformity Bill.” See Chandler’s Parliamentary Debates, vol. 3. p. 220, 225.) Yet the Catholics, struggling and remonstrating against the punishments thus attached to infamy, are cruelly derided, as if consulting together *under pretence*, not for the *real purpose*, of preparing their complaints and Petitions.

in self-estimation, yet indignant at the scorn attached to his lot, and vainly looking around him for the succour and smiles of those Laws and that Constitution, which exalt his fellow-citizens upon his mortification and misery. Then let him, indeed, consult those eloquent panegyrists of the British Constitution, the Montesquieus, the Blackstones and De Lolmes, who have pourtrayed its blessings in such fascinating colours; and let him ask them, whether he partakes of those inestimable blessings, or shares in that "POLITICAL LIBERTY," which they have pronounced to be *the very end and purpose* of that admired Constitution? Let him interrogate his own heart: does he enjoy LIBERTY OF CONSCIENCE? Is he perfectly free to follow its pure and harmless dictates? Is he, or are his children, in a state of Servitude or of Emancipation? The Answers will readily be found. They are graven upon every true and honourable heart.

CHAP. VI.

Appeal to the  
test of reason  
and feeling.

Political liberty.

LIBERTY OF  
CONSCIENCE,

whether enjoy-  
ed at present by  
the Catholics?

So much for the present condition of the Catholics of Ireland. From this condition they seek to be fully extricated: not through the wilderness of *gradual* Emancipation, but by the broad avenues of right and justice: and upon the great principle of Religious Liberty. They build their hopes upon no narrow or jealous policy.—They would cheerfully concede the enjoyment of Civil and Religious Freedom to all mankind: *they ask no more for themselves.*—

The object of  
Catholic pe-  
titions.

Religious Liber-  
ty.

## CHAP. VI.

The real and  
sole objects of  
Catholic petiti-  
ons.

To expunge from the Statute Book every line of angry feeling, every memorial of rancour, and every remnant of proscription: to efface every clause, provision, and phrase, that gives nerve to bigotry, sanction to intolerance, or preference (*in temporals*) to the professors of one Faith over those of any other, in any department of the state, or in any part of the Empire:—These noble objects comprize the entire policy of the Irish Catholics—engross their anxious thoughts, and constitute the scope and purpose of all their remonstrances and Petitions to every branch of the Legislature.

“ *Ea enim presidia Libertatis petunt,*  
“ *Non licentiæ ad oppugnandos alios.*”

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END

OF THE FIRST PART.

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✂ The SECOND and concluding PART of this Statement is now in the Press.







A statement of the penal laws, which aggrieve the Catholics of Ireli:  
Scully, Denys, 1773-1830, author;Fitzpatrick, Hugh, -1818, publish  
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